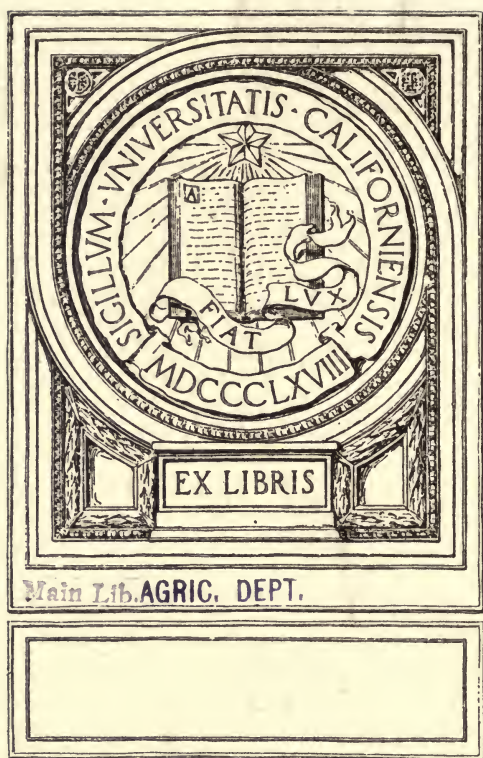


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# OLEOMARGARINE

AND

# BUTTERINE.

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*A plain presentation of the most gigantic swindle  
of modern times.*

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PRICE, 25 CENTS.

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UNIV. OF  
CALIFORNIA

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## INTRODUCTORY.

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"There never was, nor can there ever be, a more deliberate, outrageous swindle than this bogus butter business. The whole scheme was conceived in iniquity, is nurtured by commercial moonshiners, and carried into execution by desperate men who are careful to appeal to that protection which our laws wisely throw about those charged with crime, in order that the innocent may not unjustly suffer, while they are deliberately, persistently, and willfully violating the law and profiting by the perpetration of a base fraud upon the people."

These words were used by State Dairy Commissioner Brown, of New York, and none could have been chosen to express more succinctly and more pointedly the opinion entertained by all honest citizens on the dishonest traffic in oleomargarine and other imitation butter by unscrupulous men who throw honesty to the winds and glory in the wealth obtained through fraud, deceit, and misrepresentation.

This little book is designed to set before the people the enormity of this abominable traffic; the laws that have been passed or are in contemplation for its prohibition or regulation; the decisions of the courts of law; the movements that have been set on foot against it in the various States of the Union; the injury that is being done to one of our most important agricultural interests; and such other facts as may fully open the eyes of the public to the importance of procuring legislation for the protection of honest dairymen, dealers in dairy products, and above all, of the consumers. It is made up from a series of articles printed in January last in the *New York Star*, and takes in all important movements for the much-needed reform throughout the country. These articles met with the approval of many of the leading merchants of this city, and, as was evidenced by the favorable notice taken of them by the press in other States and cities, were well received everywhere by those interested in this important question.

Inasmuch as the fight against this gigantic swindle is only now assuming national importance, it is hoped that this book may be of service to those who are interested in procuring legislation for the protection not only of their own interests but of the public health. The manufacture of this imitation butter and its sales to consumers are increasing daily (except in the State of New York, where the strict enforcement of the law has brought about a reduction of about fifty per cent. in the number of violations), and the manufacturers, grown arrogant with their ill-gotten wealth, now demand that the product of their factories shall be declared a legitimate article of human food. Backed by unbounded wealth and aided by the best legal talent that money can procure, they assail all our legislatures, and, if not strenuously resisted by the people themselves, will eventually succeed in effecting their desires. They claim that they want the people educated so that they will appreciate the blessings of the cheap butter they afford them, but they have no desire that that education shall extend to an exposure of the vile materials they use and the injurious processes they employ. So far as it has been possible to obtain them—for the manufacture of oleomargarine is a valuable trade secret—they are given in this book, and if consumers, after reading it, are content to spread the stuff upon their bread, they may consider themselves educated up to the manufacturers' point.

# Oleomargarine and Butterine.

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## A PLAIN PRESENTATION OF THE MOST GIGANTIC SWINDLE OF MODERN TIMES.

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### HISTORY OF OLEOMARGARINE.

OLEOMARGARINE, the basis of all the frauds in butter, is the outcome of an ingenious Frenchman's notion that the butter diffused through the milk of the cow is due to the absorption of the animal's fat. Taking some minced beef suet, a few fresh sheeps' stomachs cut into small pieces, a little carbonate of potash and some water, this Frenchman—Hippolyte Mege by name—subjected the mixture to a heat of 113 degrees Fahrenheit; and so, by the action of pepsin in the sheeps' stomachs, separated the fat from the other tissues. By hydraulic pressure this fat was again separated into stearine and margarine; and putting ten pounds of the latter into a churn with four pints of milk, three pints of water, a little annoto, Mege succeeded in turning out a compound sufficiently like butter to pass for that article, its only lack being the golden yellow color that characterizes all good butter.

Whether he had produced a deleterious stuff containing the germs of disease and of all manner of loathsome parasites, as one set of scientific experts pronounced, or something far more wholesome than half the butter in the market, as another set emphatically declared, was of little moment to the discoverer, so long as the thing was likely to prove profitable. He patented his process, and found no difficulty in selling rights to handle it in France, England, Holland, Germany, and the United States.

The sole right to issue license for the making of oleomargarine under this patent now lies, it is said, with the American Dairy Company (whose dairies are all fat-boiling factories), which has issued licenses to factories in Philadelphia, Pittsburgh, Baltimore, Cincinnati, New York, New Haven, and other cities. Several parties embarked in the business without troubling themselves about paying for the right to do so, but the bulk of the trade is in the hands of licensed firms. The Commercial Manufacturing Company of New York had the lead in this business for several years, but when the new patents, under which animal fat of all descriptions could be used, began to come into operation, it was found that material more fit for the soap boiler than for human consumption was being extensively manufactured into butter, and in 1882 the company abandoned this branch of their business.

The Commercial Manufacturing Company began operations in 1876, and their trade soon attained considerable proportions, as much as 500,000 pounds of fat per week having been converted by them into oleomargarine in a single week, which, at the rate of  $2\frac{1}{2}$  pounds of fat to 1 pound of oil, would yield 200,000 pounds of oil or butter. This rate of production was maintained up to the middle of 1882, when it fell off, owing to two causes, one the passage of an act by the Legislature of New York directing that all oleomargarine should be branded with its true name and forbidding its being colored to resemble butter, and the other the generally prevailing low prices for dairy butter at that time. These low prices rendered the manufacture of sham butter unremunerative. When the retail price of genuine butter falls below twenty-three cents a pound it does not pay to make the imitation product. The average wholesale price for oleomargarine up to the time of the passage of the act was thirteen

cents a pound for the oil and fifteen cents for the butter. Since that time it has sold as low as eleven cents, and now rules at about eleven and one-half cents. Last summer it sold as low as ten cents per pound.

In a report prepared in 1880 by Mr. Archibald, British Consul at this port, that gentleman furnished the following particulars to the British Board of Trade, at whose request the report was made:

"During the past two years the quantity of fat manufactured into oleomargarine oil and butter by the Commercial Manufacturing Company of New York has been about 200,000 pounds a week, yielding 80,000 pounds of oil and butter. Of this about 75 per cent., or 60,000 pounds, was the oil product, oleomargarine, all of which was exported in barrels or tierces, for the most part under the name of oleomargarine, but sometimes as butter fat, or simply as oil. This would give a yearly exportation by this company alone of about 3,000,000 pounds. But it is estimated that nearly an equal quantity is being made by the manufacturers outside of New York, so that the total quantity of oleomargarine exported from this port may be stated at about 6,000,000 pounds annually."

Besides this quantity of oil for making sham butter, a large quantity of the butter itself was and is exported, Great Britain coming in for the lion's share of it. Sometimes it is shipped as butter fat, oleomargarine, or butterine, but nearly always as butter, pure and simple. An effort was made by the dealers in legitimate dairy products to prevail upon the customs' authorities to require that nothing but natural butter should be exported; but as it was impossible to inspect and test all the shipments, and as the oleomargarine interest was fully able to look after itself, this proved unavailing, and from that time to this the compounds turned out by the oleomargarine factories have found their way in ever-increasing quantities to England and the Continent. All of the export bogus butter is put up in half butts or firkins in precisely the same way as the genuine article, or made up into pound pots, covered with muslin wrappers, stamped like pure butter and packed in boxes. It is sold every day in London shops at from ninepence to a shilling a pound.

The great bulk of the oil finds its way to Germany and Holland, enabling the latter country to keep up its reputation as a butter market, without the trouble and expense of keeping up its stock of cows. The heaviest shipments are to Rotterdam, whence the oil is sent to a place called Oes, where it is mixed with a certain proportion of milk, to give it a suspicion of the real butter taste, then colored to make the outward resemblance perfect, and then churned into butterine. This the thrifty Hollanders ship to France and England to be sold as best Dutch butter, although a proportion of what goes to France finds its way to England under the guise of the product of the dairies of Normandy and Brittany, side by side with tubs of "real Irish butter" hailing from the self-same factory on the American side of the Atlantic.

No wonder that the reputation of genuine American butter—than which the world produces no superior—should suffer in foreign lands when practices like these prevail. Every pound of the sham butter that is sold takes the place of a pound of the genuine product of the dairy, and thus the dairy products of the United States are brought into disrepute, and the foreign demand, instead of increasing rapidly, as it naturally should, is daily becoming smaller and smaller. The crime of the traditional Connecticut Yankee who gloried in selling the Britishers wooden nutmegs, sinks into utter insignificance as compared with this monster swindle.

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## MOVEMENTS AGAINST OLEOMARGARINE.

Among the recent movements against the shameful traffic in this city the action taken by the New York Retail Grocers' Union was most significant. This body, which includes among its members most of the respectable grocers of New York, has definitely put itself on record as encouraging the sale of all pure goods, and discouraging and endeavoring in all legal ways to prevent all deceptions that are or may be practiced on customers by the sale of imita-

tion or impure goods. The preamble and resolutions passed by the union are worthy of publication in full, expressing as they do the abhorrence by honest tradesmen of the vile practices now in vogue by certain retailers. They read as follows :

*"Whereas, We are informed that the laws of the State of New York prohibit the sale of all imitations of butter in the way they are at present manufactured and offered for sale, and*

*"Whereas, The sale of all imitation butter has been a detriment to the legitimate business of the retail dealer, inasmuch as that it has been a constant temptation to the dealers therein to sell it for butter; and that such fraudulent sales have created a prejudice and fear among the consumers in regard to the purchase of all butter, therefore be it*

*"Resolved, That we discourage the sale of all imitations of butter and urge all our members and the trade in general not to handle in any manner or form, until such a time as the manufacturers thereof produce and offer for sale to us an article that will be distinct in appearance, and different in color to that of genuine butter; that will be free from all temptation to fraud, and that will be manufactured and sold to us in strict accordance with the laws of this State. And be it further*

*"Resolved, That we most respectfully petition the State Dairy Commission to use all power that is conferred upon them to stop the fraudulent sales of all imitation of butter."*

The war against oleomargarine and other counterfeits of butter is spreading rapidly in nearly all the States of the Union, and everywhere the newspapers teem with attacks upon the traffic. In those States which are provided with laws prohibiting or regulating the sale of the product the officers entrusted with their enforcement are acting with increased vigor; and in the States which are not so blessed combined movements among dairymen and honest dealers are in progress to secure the passage of necessary legislation. This movement has become actually national in its importance, for no less than three measures are now pending in Congress looking to a suppression of the fraud. One of these is the bill introduced by Congressman A. J. Hopkins of Illinois, which puts the manufacture of oleomargarine and kindred products under the charge of the Internal Revenue Department and imposes a tax of ten cents upon every pound manufactured. The others are somewhat similar in character, but differ from the Hopkins bill in the amount of penalties imposed for violation of their provisions.

There can be no question that the passage of any of these acts will be bitterly opposed by the oleomargarine lobby in Washington, which is by no means a weak one, but as the subject is one of the most vital importance to an agricultural interest that is second to none in the United States, and as their passage will be almost universally demanded by the constituencies of representatives who come from what are known as the butter-producing States, the issue is not doubtful. The recent decisions in this State and in Pennsylvania as to the constitutional right of the Legislature to enact laws which, like this, are designed to protect public health, will no doubt have great influence upon the minds of Congressmen, as they have already had upon the judges of minor courts.

In speaking of the operations of his department, recently, State Dairy Commissioner Brown, of New York, said: "The venders and dealers in bogus butter have deliberately and persistently represented in every possible way that there is now no law in our State to prevent the open manufacture and sale of these adulterated goods, in face of the fact set forth in the opinion of the Court of Appeals in the Marx case, that there are several unrepealed statutes relating to this subject, beside our present law, which the court more than intimates is operative and constitutional. This, it is claimed by them, is legitimate and honorable, while our efforts to prevent such open and flagrant violation of the laws of the State are characterized as oppressive, and the officers and agents of this department are charged with the grave offense of maliciously persecuting enterprising people engaged in legitimate business. This sort of enterprise loads down the United States mails with circulars addressed to the citizens of States

whose laws forbid the sale of these bogus goods, urging them to buy and deal in them, and tempting them by the promise of abnormally large profits to violate the laws of their own States and to commit a crime for which they may be punished by fine and imprisonment. The manufacturers of these adulterated goods purposely make them a close imitation of butter in order to facilitate gross deception; and while it is true that the manufacturers and wholesalers generally sell the goods for imitation of pure dairy butter, they know perfectly well that the retailers are going to sell them for genuine, and they know also that were it not for the fact that the retailer can and will sell them for butter these goods could not be sold at all.

"So rapidly has this deplorable disposition to defy law in order to make money been developed and strengthened by the friends of this slaughter-house butter, in order to hinder us in our work and prevent, if possible, the enforcement of our present statute, that a large number of grocers in New York City have perfected an organization to resist the execution of these laws, and have raised a fund and employed attorneys with that unworthy object in view. Every one of these dealers, when he leaves the store at the close of the day, goes home for the night well knowing that his property is quite secure because he is protected by the laws of this great State, and that the whole power of the commonwealth is pledged to protect him and his property against all who would do him harm. And yet we witness to-day the startling and shameful spectacle of a number of business men, so called, banding themselves together to resist the laws of their own State, upon whose protecting care they so confidently and completely rely for all that makes them secure in their property and safe in their persons and homes."

In Ohio a strong movement is under way to procure the passage of a statute by which a dairy commission shall be constituted for the purpose of enforcing laws already in existence against the manufacture and sale of fraudulent dairy products. Last autumn the Ohio Dairymen's Protective Association, a recently formed organization, took a hand in the election, and in several counties their interest was sufficient to elect members of the Legislature who were pledged to use their best efforts against bogus butter and its allies.

In August last the National Dairymen's Protective Association, formed for the purpose of devising means to guard the agricultural interest against the frauds that bid fair, if continued, to ruin them, adopted a resolution instructing their officers to issue an address to the dairy farmers of America, and this has recently been published. Its terse and epigrammatic statement of the evils growing out of the nefarious traffic in counterfeit butter are well worthy of reproduction here, and will be read with interest not only by the farmers to whom the address is made, but by the merchants whose interests are jeopardized and the public whose health is endangered. The address says:

"For ten years an enemy to the interests of butter producers has been steadily gaining strength by fraud and deception, until the natural product of the dairy has become profitless and ruin threatens an industry second to none other in agriculture and the equal of any in our national economy. Oleomargarine, butterine, suine, and other compounds fraudulently sold under the name of butter have made an investment in land and cattle of over \$200,000,000 devoted to dairy purposes and an annual production of \$500,000,000 per year almost valueless, not by honest competition, but by deception of the most criminal kind, while the consumer has been swindled correspondingly.

"Our export trade in butter has been almost ruined by the prejudice created against our product in the foreign markets of the world. Values of dairy products have declined more than 50 per cent., and what would be a profitable industry under natural conditions has become a losing trade. Through the paralyzation of this great industry, all others in America suffer in sympathy.

"Those who are the cause of this loss and injury to the farmers of America and the commerce of the country are enemies of the public weal. They not only wrong the producer of legitimate butter, but impose upon the consumer. Were their products sold honestly for what they are the wrong would be great enough, but marketed under the name of butter, at prices far below what a genuine article can be procured for, consumers are hoodwinked into

buying it, and the genuine article suffers. The consumer gets an inferior article and the farmer has his product on his hands; it is counterfeiting of the most damnable kind, and with the same disastrous results as circulating imitations of money entail, only in this case capital and respectability, and want of proper laws, enable the fraudulent butter manufacturer and dealer to ply their vocation unmolested.

"State legislation has failed, laws badly framed have been passed only to be declared unconstitutional in the end, while not capable if valid to accomplish the end; for if driven out of one store the enemy only moves into another to ply his vocation.

"National legislation is necessary, and can alone be effective, or the dairy industry will be completely ruined. Congress must be appealed to and men elected to Congress who will vote for such laws as may be necessary. It is therefore recommended that the dairy farmers in every district in the United States meet and organize on this movement; this the greatest of all others now.

"The tariff, civil service reform, and all other questions sink into insignificance as compared with this, for it concerns the pockets of every man owning any part of the 18,000,000 milk cows in the United States. Organize, then, and elect men to Congress the coming year who will represent your interests, and let the agitation be carried on until every counterfeit butter establishment in the country is closed. In the mean time agitate the question among your friends and neighbors. Not a moment is to be lost. Encouraged by their success your enemies grow bolder and increase their wrong-doing.

"Factories for the manufacture of the bogus article are springing up daily. It will take the most strenuous efforts to hold out against them until relief can be had. The imposition is the grossest ever practiced against a people; 7,000,000 farmers are left to suffer from the dishonesty of a few manufacturers. The Revolution was fought for less cause when the population was less than half that number. Rouse, then, and demand by the majesty of right the suppression of this wrong, and your voice will be heard and heeded. Organize to do it, and when, as farmers of America, you have taught one band of robbers that you can protect yourselves, others who would rob you of your rights and property will begin to fear your vengeance, and cease their robbery.

"Already the cause for which our association was organized has spread and gained strength. The agricultural press in different parts of the country has taken up the fight, and speakers and writers in all sections have begun to agitate in your behalf since our movement began. Let the work continue until every pen and every press and every platform sounds the note of warning and comes to your aid. A convention for the discussion of means and measures will be held at the Grand Central Hotel, New York, Friday, February 16-18, 1886, in connection with the American Agricultural Association. Every one interested in the subject and every producer and dealer in butter is requested to attend."

While dairymen and lovers of legitimate trade are moving for reform the oleomargarine men are not backward in urging their claims. The following from *The New York Star* of January 3, 1886, will prove of interest in this connection:

"The recent agitation of the bogus butter swindle by *The Star* has had the double effect of awaking the public to a realization of the importance of the interests involved, and of prompting the oleomargarine manufacturers to renew their efforts to have their product recognized by the State Legislature as a legitimate article of food. Backed by practically unlimited capital and advised by the best legal talent obtainable, they are prepared to enter upon a new campaign in Albany this winter which bids fair to be the most active on record. It is learned from a trustworthy source that they will endeavor by every means in their power to engraft a provision upon the present law removing the prohibition to the use of coloring matter in oleomargarine and butterine. They will urge that this prohibition is unconstitutional, for the reason that many legitimate dairymen use annatto and other materials to color their butter at certain seasons of the year, and that it is manifestly an injustice to prohibit their use by others. These gentlemen forget that, even if they procure the desired change in this law, there will still exist to their detriment certain sections of the Criminal Code, one of which makes it a

misdeemeanor to manufacture or to offer for sale for human food any substances in imitation of such food products, while the other prohibits the sale of diluted or adulterated foods, unless the seller shall first inform the buyer of the bogus nature of the articles. They will hardly go so far, unbounded as their audacity is, as to demand the abolition of the State Dairy Department, for that has become a fixture; and as long as this exists, and is managed as honestly and efficiently as at present, the dairy interest will be guarded as well as the limited funds allowed the department will permit."

Mr. William H. Coughtry, president of the Albany Merchants' Association, which includes most of the grocers and other business men of that city, called upon President C. F. Bussing, of the Retail Grocers' Union, of New York, recently, and suggested the expediency of an organized movement on the part of the combined retail grocers, butter dealers, and dairymen of the State to oppose the machinations of the oleomargarine interest in Albany. Mr. Coughtry declared that the bogus butter lobby in the Legislature would be stronger this session than ever before, and that strenuous efforts would be made to so amend the laws in force as to make them, to all intents and purposes, inoperative. He said he thought it would be well to issue an address to the various associations of grocers throughout the State, as well as to other traders interested in the suppression of the vile traffic, urging them to send representatives to Albany to protest against any change in the law designed to favor the moonshine butter. The address will probably appear in the next issue of the *Advocate*, the organ of the retail grocers of this city, and President Bussing says that he has no doubt prompt action will be taken by retailers all over the State. This movement, in conjunction with the convention which is to be held in this city Feb. 16, of the National Dairymen's Protective Association, will serve to warn the legislators of the State that this vital and important question is not to be trifled with.

In the meantime the movement in other States is growing stronger and more widespread every day. Robert M. Littler, the secretary of the National Butter, Cheese, and Egg Association, has issued an address to producers and consumers of dairy products, in which he takes the ground that was taken last year in Ohio, and brings the bogus butter question into the field of politics. The address says:

"Chemical analysis as well as common sense shows that many of these counterfeits are and must be unwholesome. In some instances the process and material for deodorizing the lards and fats render the product deadly poison, and if no apparent injury arises from taking these poisons into the system it is because they are so small that their effects are not immediately observable. But it is certain their continued use must undermine the health of the consumer and result in fatal disease.

"Further, in addition to the amount of dairy goods displaced by the counterfeit, the suspicion cast upon all dairy goods by the knowledge of the existence of these frauds has sickened the public stomach and discouraged consumption to an extent which we have no means of estimating. To these facts we have the right to largely attribute the depressed condition of the dairy interest of this country during the past year, and reason to fear the great injury if not utter destruction of the dairy interest, which has hitherto been so remunerative, and which is second to no other national industry in point of public importance and financial investment.

"In view of these facts and this threatening danger, what are the farmers, dairymen, creamerymen, and consumers prepared to do? Will they adopt measures to protect themselves against fraud, robbery, and imposition, or will they let these counterfeiters have full sway and ruin a leading industry, bringing upon the community at large all the dire consequences of such ruin?

"It is already demonstrated that imitations, counterfeits, and frauds can be legally suppressed by appropriate legislation, provided people will rise in their might and demand the necessary measures. All that is needed is a healthy public sentiment manifested through the ballot box, to afford an effectual remedy and future preventive of the evils which now confront us. The laws of the land punish the counterfeiter of money with State prison. Why not the counterfeiter of butter or other food? To counterfeit criminally is 'to make something seem

to be what it is not for pecuniary gain.' The difference is in the degree and not in the essence of the crime. Both are crimes--crimes against the community. Both make something seem to be what it is not for gain.

"The challenge is defiantly thrown down by organized capital against unorganized labor. The only way to effectually meet it is by State, county, and town organizations, for the purpose of electing State legislators and Congressmen who are in sympathy with the people, and willing in their behalf to confront the mercenary hosts of the counterfeiters. Interrogate every candidate of whatever party, and of all parties, and cast your votes for none who are not willing to squarely pledge themselves to vote for the necessary measures to suppress and prevent all frauds on the dairy. Act at once. If your State Legislature is in session, circulate a petition among your fellow-citizens, and have these frauds upon the dairy interest attended to by State legislation."

Attached to the address is a form of petition asking the Legislature, first, to prohibit by law the sale of butter or cheese of any substance not the unadulterated product of pure milk; second, to enact suitable penalties for the violation thereof; third, to appoint a Dairy Commissioner for Iowa charged with the enforcement of the law, and appropriate ample funds for this purpose. This petition has already been numerously signed, and will be presented at the next session of the Legislature.

Among the States in which the movement against oleomargarine is daily gaining strength, is Minnesota, where the sale of the article is altogether prohibited, and a fine ranging from \$100 to \$500 is the penalty for violating the law. Here the manufacturers are making persistent efforts to make the trade and the public believe that the State anti-butterine law is unconstitutional, and that oleomargarine is a healthful food and product. In a recent communication to the Minneapolis *Evening Journal*, Assistant State Dairy Commissioner H. C. Howard says, over his own signature:

"It is not necessary to enumerate any of the names of the countless numbers of living organisms found in butterine to prove its deleterious effects on health. Last spring Mr. Lambert, of stall 20, St. Paul city market, used a large carving knife for three weeks to cut butterine from the tub as he sold it, and the acids not only destroyed the silver plating, but actually ate into the steel blade of the knife and turned it black. The knife can be seen any day at stall 60, city market. The eating of butterine made of the above-named materials will destroy the digestive organs of the stomach and cause the early decay of the teeth."

A letter received recently by a dealer in legitimate dairy products from a correspondent in Cincinnati contains some interesting facts with regard to oleomargarine and its allied compounds, and the legislation demanded in Ohio and Iowa, both large butter-producing States. This letter gives the Cleveland *Leader* as authority for the assertion that a phosphate factory located near a stock yard buys animals that die in transit. The bodies, it says, are placed in ovens and the fat extracted. The first grade of the fat thus extracted is sold to the makers of bogus butter. So much for the product itself.

As to the legislation in Ohio, the letter says that the Ohio Dairymen's Protective Association, formed expressly to counteract the machinations of the oleomargarine men, has rapidly grown in numbers, and is now an acknowledged political power. Through the influence and labors of this association several members of the Legislature were elected last fall on pledges that they would use their best efforts to suppress the traffic in bogus butter. Encouraged by their success last year, the dairymen, who feel assured of the support of all lovers of fair trade, will redouble their efforts in this direction next year, and have hopes of electing representatives who will see that their interests are not ruined by the manufacture and sale of sham butter. The oleomargarine interest in the Ohio Legislature is a powerful one, so powerful indeed, that it succeeded last year in procuring an amendment to the law providing that butter made of "pure suet or oleomargarine, oils and milk," could be made and sold. This effectually de-

stroyed the effect of previous legislation, and it is the design of the association this winter to frame a law modeled after that of New York (carefully avoiding those features whose constitutionality has been contested) and appointing a commissioner to enforce its provisions.

In Iowa, the letter says, a similar movement is on foot, and petitions praying for the appointment of a dairy commissioner are being largely signed throughout the State. In other States which have no laws bearing particularly upon this traffic, an effort is being made to press their passage, and the dairymen are appealed to to do their utmost to prevail upon their representatives to take prompt action.

## INGREDIENTS USED IN OLEOMARGARINE.

The following is a list, taken from the patents recorded in the Patent Office at Washington, of the ingredients claimed to be used in the manufacture of this article. Manufacturers deny that they use all the ingredients named in these patents, but it is certainly not unfair to assume that when they mention a certain ingredient in their application for a patent, as necessary for its making, they actually use it. This list was obtained officially from the Patent Office by Assistant State Dairy Commissioner Van Valkenburgh of New York.

NITRIC ACID,	DRY BLOOD ALBUMEN,	MUSTARD SEED OIL,
SUGAR OF LEAD,	SALTPETRE,	BICARBONATE OF POTASH,
SULPHATE OF LIME,	BORAX,	BORACIC ACID,
BENZOIC ACID,	ORRIS ROOT,	SALICYLIC ACID,
BUTYRIC ACID,	BE-CARBONATE OF SODA,	COTTON SEED OIL,
GLYCERINE,	CAPARIC ACID,	ALUM,
CAPSIC ACID,	SULPHITE OF SODA,	COWS' UDDERS,
COMMERCIAL SULPHURIC ACID,	PEPSIN,	SAL SODA,
TALLOW,	LARD,	FARINACEOUS FLOUR,
BUTYRIC ETHER,	CAUSTIC POTASH,	CARBOLIC ACID,
CASTOR OIL,	CHALK,	SLIPPERY ELM BARK,
CAUL,	OIL OF SESAME (or benne)	OLIVE OIL,
GASTRIC JUICE,	TURNIP SEED OIL,	BROMA CHLORALUM,
CURCUMINE,	OIL OF SWEET ALMONDS,	OIL OF PEANUTS,
CHLORATE OF POTASH,	STOMACH OF PIGS, SHEEP,	SUGAR,
PEROXIDE OF MAGNESIA,	OR CALVES,	CAUSTIC SODA.
NITRATE OF SODA,		

It is not sought to show that all these ingredients are used in any single process, but the fact is established that nitric acid is used in all, and it is probable that the other acids named are employed when the most powerful agents are necessary for deodorizing putrid or diseased fats.

Speaking of the materials used under these processes, State Dairy Commissioner Brown said:

"Our hearts grow warm with gratitude deeply stirred, and our appreciation of virtue is most delicately touched as we contemplate with much relief and great comfort the consoling fact that some of these patentees, these alleged promoters of digestion and benefactors of our race, have considerably determined that if this compound of acids and alkalies, animal facts, and other stuff must be pitched into the human stomach as an article of food, provision shall be made against the danger of an utter collapse of all the vital forces of the victim by the introduction of such comparatively wholesome ingredients as gastric juice and slippery elm bark."

The publication of a list of sixty ingredients named in the various patents covering the

manufacture of oleomargarine and other bogus butter raised a storm of indignation among those engaged in the making of the nefarious compounds; and the organ of that interest, an obscure journal that has little patronage save among the manufacturers of an article that is legally excluded from the markets of the State, indulges in gross abuse of Assistant State Dairy Commissioner Van Valkenburgh. That gentleman, in speaking of the article said:

"The list was prepared in my office, and under my personal supervision. It was made up from the records of the Patent Office in Washington, copies of which were forwarded at my request, and every article mentioned in that list appears in those patents. It is fair to presume that when certain articles are named in an application for a patent as essential for its perfection, those articles will be used. I took it for granted that all the drugs, chemicals, and foreign substances mentioned in these patents were used. If not, what was the necessity for mentioning them? In preparing my list, I used the names of no articles that did not appear on the Patent Office records. In sending it to members of the trade, I took care to use the words: 'And claimed by them (the manufacturers of oleomargarine) to be used in the manufacture of oleomargarine and butterine.' The writer of the article in the organ of the bogus butter trade goes into an analysis of the articles mentioned in my list, and essays to prove that none of them is injurious to public health, but fails to deny specifically the use of any of the articles used. Some he sets down as practically useless, and others as too expensive, but he does not say that they are not used. Still, he does make use of one significant remark that is worthy of mention. He says: 'The seventeen patentees, if a number of the sixty articles mentioned by Mr. Van Valkenburgh can be taken as evidence, show more wisdom than he, for they take care that many of the constituents or articles used cannot be recognized from the names given in the above enumerated list.'

"To be sure they do, and perhaps it was just as well for them that the articles constituting their product could not be recognized. The fact is that these people see that their counterfeit butter is doomed, and are ready to resort to any expedient to postpone the inevitable. The writer of that article shows that some of the drugs mentioned in my list are largely and beneficially used as curatives. So they are. I am ready to admit that; but then the question is, Do we want medicine spread upon our bread and served at every meal we eat? Salicylic acid, I am told, is good for the rheumatism, but when I suffer from that disease do I need to go to a butter tub for treatment? I should add that on my list I was careful not to mention any names, and also to explain that the sixty articles covered all the patents and were not to be considered as being conjointly used in any one process."

## THE EFFECT OF NITRIC ACID.

The following from *The New York Star* of January 25th, 1886, is worthy of presentation here in full:

It is authoritatively said that another effort is to be made this winter by the oleomargarine men to prove to the satisfaction of the Legislature of this State that the butterine and other oleaginous compounds that are furnished by them to retailers, who sell them as butter to consumers, in violation of the law, are wholesome. In view of the digestive and microscopical experiments made for the Dairy Commissioner by Prof. Clark, of Albany, and detailed in his report, this is likely to prove an uphill task. Prof. Clark made a specialty of the physiological features of his subject, making experiments in digestion and microscopical investigations, and in other ways showing the importance of public health of a thorough knowledge of what enters into any food product. As a result of his researches he arrived at the conclusion that oleomargarine is unwholesome and dangerous to health for four reasons. First, because it is indigestible; second, because it is insoluble when made from animal fats; third, that it is liable to carry the germs of disease into the human system; and fourth, that in the eagerness of manufacturers to produce their spurious compounds cheaply they are tempted to use ingredients which are detrimental to the health of the consumer.

In connection with this subject the evidence given before the Senate committee, upon whose report the law of 1885 was drafted, is interesting. When Dr. H. A. Pooler, president of the Board of Health in Goshen, Orange County, was examined, he was asked what nitric acid was, and how it affected the human system. This question was suggested by previous testimony as to the use of nitric acid in the manufacture of oleomargarine. Dr. Pooler replied:

"Nitric acid is produced by the action of sulphuric acid upon nitrate of potassa, about equal parts; it is a powerful caustic; it destroys animal tissue rapidly and almost irreparably when it comes in contact with it; upon animal fat it destroys the tissue, and deodorizes it by destroying its smell. It is also a preservative, in a measure. Undoubtedly substances submitted to the action of nitric acid would not be decomposed so rapidly as those which had not been submitted to it; but the acid would affect the digestive organs very seriously. Upon the human stomach it is a deadly poison when taken in overdoses. When taken in a diluted form not sufficient to cause death, and, taken for any length of time, it produces similar effects to that of mercury. The teeth at first become whiter, afterwards decay, and then become loose; it stimulates the excessive flow of secretion and poisons the system generally. Its caustic properties are so great, that it destroys the tissue and impairs the circulation. Where a person loses a nail from it, it is generally because of the accumulation of the acid around the root of the nail; it cuts off the circulation which supplies the nail, consequently the nail will slough off for want of proper nourishment. The acid has to be diluted in order to be safe in any degree as a remedy. In its pure form it is deadly."

This testimony was given subsequent to that of Charles Moses, a laborer employed in a Grove street butterine factory, whose duty it was to pack the finished product in the tubs. He swore that in the performance of that duty one of his finger nails was eaten off, and that the stuff eat through his clothing and into his boots.

"Would it be wholesome or unwholesome to treat any dairy product with nitric acid?" Dr. Pooler was asked.

"No, sir," he replied. "I think it would be injurious, especially so if applied by a person who was not acquainted with the acid; in fact, I think it would be very dangerous. No matter how minute the quantity is, continued for any length of time it produces an irritation of the mucous membrane of the stomach, which is only alleviated by stopping the use of it, and then sometimes the recovery is very slow. I do not think this man Moses will ever entirely recover from the effects of it. It will be years, in any event, before he gets it out of his system."

Dr. Elias H. Bailey, inspector and chemist of the Brooklyn Board of Health, being asked whether manufacturers were liable to get impure fat or lard, replied:

"Yes, especially as it seems to me one great danger of this whole manufacture lies in the fact that I have known farmers having the hog cholera in a flock of hogs, and the moment a hog is attacked with the cholera the farmer kills it, or if it dies, he tries out the fat and sends the lard to market. I have seen that done myself. Of course, to all appearance, the lard is just as good as fresh lard, and if deodorized could be used without detection. The process of deodorizing would not kill the disease.

"The principal reason why nitric acid is used by the manufacturers," this witness said, "was to remove the peculiar odor of the lard, which distinguishes one fat from another, that is decomposed by the nitric acid, which also bleaches the article to a certain extent. I hold that nitric acid is a powerful poison. Used in the most minute quantities, I believe it will produce serious irritation."

Inasmuch as prominent manufacturers of oleomargarine admitted before the committee that they used nitric acid in the processes employed by them, and as nitric acid appears in most of the formulas for manufacture filed in the Patent Office at Washington, it is fair to assume that this deadly poison enters, at least in some instances, into the composition of counterfeit butter. There can be no question that the decision of the Senate committee was influenced to

a considerable extent by this consideration, and in the Albany campaign against the machinations of the bogus butter lobby this weapon will be effectively used.

## THE EVASIONS OF THE LAW.

The troubles experienced by the Dairy Commissioners of the States having laws for the prohibition or regulation of the traffic in oleomargarine, or what the outspoken Western men denominate "bull butter," in enforcing those laws, have been more than doubled by the hesitancy of some of the minor courts while awaiting decisions from higher authorities. This has been more marked in New York, perhaps, than in any other State, the decision in the Marx case by the Court of Appeals having been held by those interested in bogus butter enterprises as a declaration that the statute was unconstitutional. They forgot that there were provisions in the Penal Code covering their illegal acts, entirely independent of what is known as the oleomargarine law, and it was not until several convictions had been obtained through the prompt action of the Dairy Commissioners for violations of the law in the lower courts, and sustained by the Supreme Court, that these nefarious traffickers in unwholesome food began to fully appreciate the dangers of their position. In speaking of these frequent evasions of the law, Mr. J. H. Seymour, said:

"This question of bogus butter is one that involves not only our national commercial honor, but the health of our people. The manufacturers of olemargarine, butterine, and other mock butters are possessed of immense capital, and leave no stone unturned to advance their own interests. My belief is that Congress has the power to pass an act to preserve the public health, and it is probably on this ground that the enactment of a law relative to the manufacture and sale of oleomargarine will be asked. The trouble about the State laws hitherto enacted was that they could be easily evaded. Thus, when the law directing manufacturers to stamp each package with the name of the product it contained was passed, they obeyed it, of course, but at the same time managed to practically evade it by stamping the word "oleomargarine" in diminutive letters on some part of the package where it could be less readily seen. It took a good pair of eyes to read this inscription, and for some time the traffic went on uninterruptedly, and the markets were flooded with cheap bogus butter. The next enactment provided that each package should be branded "oleomargarine" in Roman letters at least one inch long, and this, and the public agitation as to the wholesomeness of the stuff, made oleomargarine very unpopular for a time. Seeing that their trade was being injured, the shrewd manufacturers changed their tactics and simultaneously changed the name of their product, dubbing it this time "butterine." In spite of the new name it was the same old compound, made of animal fat and treated with strong acids and coloring ingredients that are dangerous to public health.

"If you will read the testimony taken before the Legislative Committee you will see that in no case would the makers of oleomargarine admit that in the processes of manufacture the fat was subjected to a temperature of over 120 degrees. It is known that some of these factories use the fat of diseased animals, and chemists hold that it takes 212 degrees Fahrenheit to destroy the germs of disease in animal matter. Is it not fair to conclude, then, that where the fat of diseased animals is used and submitted to a heat of 120 degrees or less that the germs still live? I forgot to mention, when speaking of evasions of the law, one interesting fact, and that was the practice that was adopted by the ingenious manufacturers after changing the name of their product to butterine. They complied with the law in stamping the packages, but the word "butter" was in big letters and the terminal "ine" in little ones. You see there is practically no end to their ingenious devices. And yet they claim that their trade is legitimate, and that they sell their wares for what they are. If this is true, why do they pack their bogus stuff like reputable dairy butter, and why is it that pots of oleomargarine stamped like the best brands of Philadelphia butter are offered for sale?

"Not long ago I attended a convention of the National Butter, Cheese, and Egg Association in Chicago, at which Mr. Stern, who represents Armour & Co., of that city, admitted before a committee that his firm sold neutral lard to creameries in the West. When he was asked whether the firm bought butter for manufacturing purposes from those creameries, he replied naively; 'No, indeed; we buy pure butter, as we prefer to do our own mixing.' He said also that the firm colored their product so as to make it look like June butter. Now, neutral lard is simply lard deodorized so that it has neither taste nor smell. Take 5 or 10 per cent. of dairy butter and mix it with this substance, and you can produce a butter that only an expert can distinguish from the genuine dairy product. This neutral lard is heavily shipped throughout the West, and there can be no question that much bogus butter comes into the market under the guise of the genuine article.

"The injury done to our export trade and to our reputation abroad as an honest-dealing nation cannot be estimated. The frauds in the trade have become so glaring that the German Government has taken measures to prevent them, and now every shipment of butter to Germany must be guaranteed. In other words, upon its arrival it is subjected to analysis, and if not found pure, it is rejected."

## DAMAGE TO THE DAIRY INTERESTS.

With regard to the injury done to the dairy interests of the State by the traffic in oleomargarine, Commissioner Brown says:

"There is invested in the dairy business of this State more than \$300,000,000, and the annual product of the dairy amounts to more than \$600,000,000. That an industry of such magnitude as this, and contributing so much to the material interests of our State, is well worthy a full, fair share of the care and attention of our Legislature cannot be gainsaid, and that the products of the dairy being consumed by the people to so great an extent as an article of food should be kept pure and free from adulterations of all sorts will not be disputed by any one, saving only those who would get gain by imposing a fraud upon their customers. I am a resident of the county of Oneida, and know that it requires a much larger sum to maintain police establishments and to enforce the criminal statutes in that county alone than was appropriated by the Legislature to carry on the work of this department. It will be readily seen that to cover the entire State with our work, and to give to each dairy county and to every section of the State that care and attention which its importance demands is impossible, and we are obliged to prosecute our work at such points within the State as will result in the accomplishment of that which promises to best serve the interest of the whole. Our appropriation is \$50,000. This, to the average farmer, seems to be a large sum of money, and so it is, but if, for instance, we had at our disposal \$120,000, which would enable us to accomplish very much more than we can now, the tax would amount to about four cents on every \$1,000 of valuation. To raise such a sum, the farmer whose farm is assessed at \$5,000, would pay a tax of twenty cents. Two pounds of cheese at ten cents per pound, a single pound of fine, pure creamery cheese, or even the price of two ten-cent cigars would pay his tax."

"The dairymen of New York are not the only ones who suffer from this nefarious traffic," said Assistant State Dairy Commissioner Van Valkenburgh. "In all parts of the country oleomargarine factories are in full blast, and the annual product of the United States must be at least 50,000,000 pounds. I cannot give you the exact figures of the butter trade in this city, but it will sufficiently show the break in the price to mention that while we have handled 13,000,000 more pounds of butter in 1885 than we did in 1882, we have received less for it by \$3,500,000 than we did in that year."

New York, which leads all the States in the matter of dairy production, is, of course, the chief sufferer; but there are other sections where the abuses of the nefarious traffic are severely felt. Hon. W. D. Hoard, President of the Northwestern Dairymen's Association, said recently:

"The butter production of the State of Wisconsin for 1884 was 38,000,000 pounds. This would amount to 73,000 pounds a week. We have lately learned, upon what we deem reliable authority, that a certain butter color manufacturer in the West has a standing order from a single butterine factory in Chicago for three barrels of color a week. A barrel of color will color 75,000 pounds. This proves that the single factory referred to is making each week three times as many pounds of butterine as the State of Wisconsin produces of butter per week. We have no doubt of the facts of the case. In addition let it be remembered that this is only one factory, while there are sixteen more in active operation in Chicago. Then remember that in all the other cities of the Union the same iniquity is going on, and ask yourself, brother farmer, if it is not about time to stir yourself and let your influence be felt. Haven't you sat in dumb silence, like 'a sheep before her shearers,' about long enough? Look at the capital you have involved. The production of milk alone in the United States amounts annually to \$900,000,000, and the milch cows—saying nothing of the beef interest—are valued at \$700,000,000. All the banking capital of the United States amounts to \$656,000,000, or \$44,000,000 less than the capital invested in the dairy cows.

"The silver production is only \$40,000,000. Yet the farmers will sit down as quiet as mice, while the silver men are hounding Congress day and night. The remedy is a simple one. Write to your Congressman, and ask him to support the enactment of a law taxing the counterfeit stuff, say fifteen cents a pound."

"There is great elation among the oleomargarine men of Chicago," said a leading butter merchant of that city, "over the decision of the State Board of Agriculture early in this month, that oleomargarine and butterine, when cleanly and properly made, and properly labeled and sold under their true names, are wholesome and cheap substitutes for butter, and they frankly admitted that they had obtained a greater concession from that body than they had ever hoped for. But while the manufacturers are elated, the legitimate dealers, who see their business falling off day by day, are correspondingly depressed. One of these told me the other day, that although he had contributed liberally to the fund raised to defray the expenses of a vigorous campaign against it, he had about given up the fight. He declared that although he did not want to do it, the time might come when he would be forced to handle the sham butter or quit the trade altogether. The butterine men had the upper hand, he said, and were making over 2,000 tubs a day, and before long would drive natural butter out of the market. This is an utter despondent view to take of the position, and is not shared in, I think, by the majority of the trade. That it is not the view taken by President H. B. Gurler, President of the Illinois State Dairymen's Association is evidenced by what he said the other day: 'I expect Illinois will be the last State to get herself in line. The butterine interest is heavy in Chicago, but we must do all we can. We shall win the battle if we persevere, for we have the people with us.'

"There is a phase of the oleomargarine fight in Chicago that has not reached New York yet, but as its cleverness is apparent, and as the manufacturers are extremely anxious to push the sales of their product in that greatest of American markets, I have no doubt it will be adopted there. The New York law requires that oleomargarine shall be sold for what it is, and the plan adopted by certain Chicago dealers might be adopted with profit in the metropolis. They show their customers samples of low grade, rancid dairy butter, offensive both to taste and smell, side by side with the bright-colored product of the factory, and say: 'Here is the dairy butter, and there is the artificial—take your choice.' Naturally, the consumer takes the counterfeit rather than the genuine article, and the shrewd dealer pockets a clean profit of fifteen cents for every pound he sells.

"One of the arguments used by the advocates of these bogus compounds is that their manufacture has caused a marked advance in the price of prime dairy butter. That is so to a certain extent, but do you know how the higher prices are maintained? I can tell you. They buy up the best brands themselves, and use them in infinitesimal doses for flavoring the stuff they foist upon the public. Good butter, which not long ago sold for fifteen cents a pound is

now selling for forty-one cents, and the butterine men went out to Elgin, famous for its butter, last week and boomed the price up to its present figure. Their object is as plain as the nose on your face. They want to make the higher grades of butter so costly that those of moderate means will be compelled to use their imitation, or eat their bread dry.

"Then, again, they decry the agitation of the butter question, and say that their object is to educate the people up to the point at which they will fully appreciate the purity and wholesomeness of their filthy product. The people, they claim, would be glad to use cheap imitation butter but for the outcry raised by sensational newspapers and jealous dairymen. At the same time, they take good care to pack their butter in tubs and firkins modeled on those used by legitimate dairymen, color it to imitate the real thing, and sell it to retailers who they know will dispose of it as genuine butter.

"The depreciation in dairy products in the four Western States that are noted for their butter, caused by the sales of this unwholesome stuff, has been enormous. In Illinois, Iowa, Wisconsin, and Minnesota there are 4,000,000 cows. The value of each of these has been reduced at least \$10 by butterine and kindred counterfeits. This alone represents a total depreciation of \$40,000,000. Throughout these States the rentals of dairy lands have fallen off fully \$1 an acre from the same cause. Do you suppose that the farmer is recompensed for these immense losses by the increased consumption of lard and tallow in the manufacture of these imitations? The fact is that, in spite of the great consumption of lard in making butterine, hogs are cheaper now in Chicago than they have ever been before."

Dealers in legitimate dairy butter claim that the manufacture and sale of the counterfeit product is doing incalculable damage to the dairy interests of the country, and that not only does it injure the domestic trade, but ruins the reputation of American dairy products abroad and thus cuts off the United States from its legitimate share in the export trade. As an instance of this, they point out the fact that England annually imports \$50,000,000 worth of butter, of which only ten per cent., or \$5,000,000 worth, comes from America. Besides this she imports \$25,000,000 worth of cheese, seventy-five per cent. of which comes from countries other than the United States. The exports of butter from the United States, they say, amount annually to about 28,000,000 pounds, while of oleomargarine there are exported 250,000,000 pounds. But for the exports of oleomargarine, they argue, the annual exports of butter would be between 50,000,000 and 60,000,000 pounds, for American butter and cheese are equal to any in the world. Inasmuch as the dairy interests of the country nearly equal in value the other agricultural interests combined, these merchants hold that it behooves our government to take such action as will effectually prevent injury to products which form so large and so essential a factor in our national prosperity.

The State Legislature of 1884 passed an act to prevent deception in the sale of dairy products and to preserve the public health, one section of which prohibited the manufacture "out of any oleaginous product, or any compound of the same, other than that produced from unadulterated milk, or of cream from the same, any article designed to take the place of butter or cheese produced from pure unadulterated milk or cream of the same, or to sell, or offer for sale, the same as an article of food." A violation of this section was declared a misdemeanor, and was punishable by a fine of not less than \$200 nor more than \$500, or not less than six months, nor more than one year's imprisonment.

A decision of the Court of Appeals declared this act unconstitutional, and there was much jubilation and gun-firing indulged in by the oleomargarine manufacturers in celebration of the event. But they counted without their host. The first law totally prohibited the sale of oleomargarine as butter, but at the last session of the Legislature another act was passed, prohibiting the manufacture or sale of any oleaginous compound when made in imitation or semblance of natural or dairy butter. This knocked their legs from under them, and it is not deemed likely that any court in the land can be found to declare that this provision is unconstitutional. Under this act the fine and the term of imprisonment were reduced.

There has been considerable bitterness between the dairymen of Illinois and the State.

Agricultural Board recently because the latter declined to join in the movement to abolish the manufacture and sale of bogus butter, and because at a recent fat-stock show the butterine men were permitted to exhibit their product. The Agricultural Board took the ground that the manufacture of butterine is a legal business, and declared that they could not discriminate between two occupations, both being legitimate. It was in vain that the dairymen protested that the sales of the bogus butter were made in fraud and that their interests were being ruined by dishonest means and not by honest competition; the board still persisted in holding to its views. It seems that the agitation of the bogus butter question has had a good effect upon this body, for at a recent meeting they adopted the following resolutions.

“Whereas, The State Board of Agriculture is in sympathy with every effort to secure pure and wholesome food for the human family: and,

“Whereas, There seems to be at present no adequate protection against unwholesome and deleterious adulterations of dairy products afforded by law; therefore, be it

“Resolved, That we respectfully request Congress to enact a law placing all dairy products and all imitations of or substitutes for the same under the control of a competent government inspector, to the end that such articles shall be branded and sold under their proper names and on their own merits.

“Resolved, That we respectfully direct the attention of Congress to the unwholesome adulteration of other food products, and pray for proper legislation for the adequate protection of the people from the same.”

## THE DECLINE IN THE PRICE OF BUTTER.

The following from *The New York Star* of January 28, 1886, is a lucid presentation of the methods pursued by oleomargarine manufacturers in their desperate efforts to force their vile compounds into universal use:

Of the many arguments used by the advocates of oleomargarine, butterine, and other fraudulent butter, one of the most potent has been that the introduction of the bogus in competition with the genuine article has advanced the market price of the latter within the past five years. While it is true that the finest grades of creamery butter, such as the Elgin and the Darlington, sell at higher figures to-day than at any time within the period named, the product of the ordinary dairy farmer has not maintained its standing in the market. It is true, too, that there have been many improvements in the making of butter in the past few years that have enhanced the value of the higher grades, but to claim that the manufacture and sale of oleomargarine has increased the price of butter is absurd, since every pound of the bogus article sold and consumed must take the place of a pound of the genuine. Hence the dairyman has been defrauded out of his legitimate market, while the consumer has saved little or nothing by the purchase of the counterfeit, for bogus butters are sold at about the same prices as natural dairy butter, and he has eaten a substance that is neither pure nor wholesome.

The Elgin creameries, which are located near Chicago, practically fix the prices for butter throughout the country. The ruling power in the butter market is the Elgin Board of Trade. The prices it quotes prevail wherever butter is sold, and hence its influence is not to be underestimated. The following letter, which appeared in a recent issue of the *Elgin Courier*, is from Mr. L. M. Potter, a well-known creamery man, correctly sets forth the situation and shows that, while the Elgin creameries fix the price for butter, the butterine men, backed by tremendous capital, practically control them. Mr. Potter says:

“During the late discussion before the State Board of Agriculture at Springfield on the butterine question, one of the advocates of the interest made the assertion that the manufacture of oleomargarine and butterine enhanced the value of Elgin creamery butter, and was therefore an advantage to the dairyman. While, as is well known, they do use a portion of

our best creamery butter in their manufacture, yet, when, as they claim, they do not use to exceed 40 per cent of the same in manufacturing an article which they also claim to be nearly equal to our best brands, all of which goes into consumption in competition with or as a substitute for our genuine goods, their arguments, to use the words of President Landrigan, are simply non-debatable. We also admit that they do at certain times and on special occasions advance prices on the Elgin Board of Trade; but as these advantages are only temporary, they tend to demoralize our market, and are invariably followed by a reaction. We claim them to be injurious instead of beneficial.

"In support of this, please allow us to cite you the effect at Elgin during the last few weeks: Nov. 24 the board price was 27 cents; Dec. 1, 30 cents; Dec. 8, 32 cents, with a good healthy legitimate demand from the dealers in New York, New Orleans, St. Louis, and other cities who buy our goods regularly for their trade. Dec. 15 there were orders from the above dealers for all offerings at or about 35 cents. At this date one of the most prominent butterine firms of Chicago, through their agents at Elgin, offered and bought every pound they could get at 40 cents. This was fully 4 cents over and above the prices of any other market, and they doubtless could have bought every ounce of butter not positively contracted at 36 cents. The 22d the same parties took it again at 40 cents. In the meantime telegrams and letters were being received by our factory men and local dealers as follows: 'Extreme high prices check demand. Ship half regular order.' 'If prices exceed—cents ship only—tubs. Too high for our market.' 'Owing to the uncertainty of your board prices omit our three weeks' shipments.'

"December 29 the butterine men withdrew, and the demand being almost entirely cut off, as above, it was at once evident there must be a decline; but our local dealers, hoping to prevent a general break, purchased a few small lots, and established the price at 38 cents, although it proved a losing speculation to them. January 4 butterine men not buying and stocks accumulating, the market became lifeless, and fell back to 32½ cents, therefore not only causing us to lose an apparent benefit we had derived, but also a stagnation from which it will take weeks to recover, if at all. Neither is this the worst feature of these purchases. Dealers in large cities, not knowing the cause of these large and unreasonable fluctuations, accuse us of making fictitious prices, and threaten to withdraw their orders entirely from this market, and some have already done so. As the Elgin Board of Trade prices govern largely during the winter months those of all the leading markets, we claim the objects of the butterine men were: First, to advance the price of our finest creamery butter so as to practically place it above most of the consumers; second, to increase the demand for their product, and enable them to obtain better prices for the same."

In Colorado there is a law regulating the manufacture and sale of oleomargarine, and State Dairy Commissioner Feldwisch is enforcing it vigorously. The penalty for a violation of the law, which is not unlike that in this State, is a fine of not less than \$50 nor more than \$500, and imprisonment for not more than one year, both at the discretion of the court. He has recently brought about the trial of several dealers, and the question of the constitutionality of the law will probably come before the highest court of the State within a short time. Dr. Headden, the State chemist, has been following the method lately adopted by Dr. Taylor, the microscopist of the Department of Agriculture at Washington, and recently exhibited the results of his tests to the State Grange. His researches show that beef fat, hog fat, and butter fat crystallize in different forms. When placed under the microscope the crystallization of each fat gave views so uniform and distinct that there was no difficulty in deciding on the kind of fat. The molecules of butter fat clearly showed the characteristic St. Andrew's cross, on what looked as near as anything like a half blown rose in miniature, while those derived from beef fat had a uniform flaky appearance, somewhat resembling crystals of snow, and those derived from lard were more like stars with irregular and sharply defined spangles. The tests made seem to be so certain that it would be hard to overturn them, even in this State, which abounds in scientists of high and low degree. If the cases ever come to trial on the

merits of the subject and the proof is contested, they will furnish matter of great interest to the scientific societies."

Speaking of the present cheapness of oleomargarine, Assistant Dairy Commissioner Van Valkenburgh said: "I am informed that within the past ten days 200 tubs of the stuff have been sold by one large manufacturer in this market at eight cents a pound. Inasmuch as the tubs stand him in about one cent a pound, and good lard costs seven cents a pound, it is evident either that he did not use a high-priced lard in making his oil, or contented himself with a very small profit.

"A favorite argument used by the advocates of butter substitutes is that they have materially increased the price of the higher grades of dairy and creamery butter, and the impression sought to be conveyed is that consequently the traffic in these counterfeits has been a benefit, rather than an injury, to the dairy interest. That this is untrue is conclusively proved by the following figures, which were obtained from the statistician of the National Butter, Cheese, and Egg Association, and are made up from the annual reports at the conventions of that body.

"For the year ending November 30, 1882, the sales of Eastern butter, made in this city at an average of  $29\frac{1}{2}$  cents a pound, aggregated 44,214,900 pounds, the amount received being: \$13,043,617.05; the sales of Western butter, which averaged 28 cents a pound for that year, aggregated 35,648,860, and brought \$9,981,617. This made the grand total of sales for 1882-79,864,840 pounds, and the grand total receipts \$23,025,234.05.

"In 1883 there were sold 44,804,060 pounds of Eastern, at an average of 26 cents a pound, and 46,743,850 pounds of Western butter, at 24 cents a pound, the receipts for the former aggregating \$11,649,055.60, and those for the latter \$10,978,524. This made the total sales for the year 90,547,910 pounds, and the total receipts in money \$22,627,579.60.

"In 1884, 38,263,620 pounds of Eastern butter, at  $24\frac{1}{2}$  cents a pound, brought \$9,374,635.90, and 49,853,350 pounds of Western butter, at 22 cents a pound, \$10,967,737, making the total sales 88,117,170, and the total receipts for the year \$20,342,392.90.

"In 1885 Eastern butter averaged 22 cents a pound, and Western butter 20 cents a pound, and 39,480,350 pounds of the former and 54,086,500 pounds of the latter were sold. This shows a total of sales of 93,566,850 pounds, and a total of receipts of \$19,502,977 for the year.

"By a careful comparison of these figures it can be easily seen that the price has been steadily falling, Eastern butter declining from  $29\frac{1}{2}$  cents a pound in 1882 to 22 cents in 1885. Thus, while the butter dealers in 1885 handled 13,702,000 more pounds of the product than they did in 1882, they received in money \$3,522,388.05 less. It should be remembered that these statistics represent the trade of New York City alone, which is probably not more than one-tenth of the trade of the United States. By comparing the receipts of 1882, when the total sales aggregated 79,864,840 pounds, with those of 1883, when 90,547,910 pounds were sold, there will be found a difference of \$1,397,715.45. In other words, the dealers handled 10,683,070 more pounds of butter in 1883 than they did in 1882, and received for it \$1,397,715.45 less. In the succeeding year there was a further decline, and the total receipts fell off from \$22,627,579.60 to \$20,342,372.90—the amount handled in 1884 being 2,430,740 pounds less than that handled in 1883."

"Is there any reason to doubt that these results have been brought about by the unholy traffic in oleomargarine, butterine, and other bogus butters?" said a leading butter merchant. "If you will inquire among reputable retail dealers, you will find that nine out of ten of the consumers who visit their stores to purchase butter ask especially as to its genuineness. You will also find that many dealers have lost a certain proportion of their customers through the distrust that arises in the public mind as to the wholesomeness and genuineness of the article offered for sale. I was told the other day that the butter trade of certain well known and long established grocers, who are known to value their reputation too highly to risk it by dealing in counterfeits of any kind, had nearly doubled since the agitation of the oleomargarine ques-

tion began, and I have no reason to doubt that it is true. The imitations are so cleverly disguised, and come to the markets in tubs and firkins so exactly modeled after those used by legitimate dairymen, that housekeepers are careful to deal only with establishments that are above suspicion.

"I have seen an abstract of the Dairy Commissioner's report, in which he says that scientific experiments have proved conclusively that oleomargarine is indigestible, and much less soluble than natural butter. If this be true, it seems to me that future legislation on the subject can have but one object—its entire prohibition. I do not think that any court has yet decided upon the question as to whether oleomargarine is wholesome or not, and I hope that this issue will be speedily raised. If the Legislature or Congress takes any action looking to a thorough scientific test, I would suggest that care be taken, in procuring samples for the test, that goods already on the market for sale should be selected. The manufacturers are shrewd and wily, and would not hesitate, if the opportunity offered, to furnish specimens of their product that would consist very largely of genuine butter. When the stuff first made its appearance, there is good reason to believe that samples were sent to chemists for analysis that had been especially prepared for their benefit. Let the new tests be made on the product as actually sold."

## PATENTS AND METHODS OF MANUFACTURE.

It is the claim of the manufacturers of sham butter that the product they foist upon a too credulous public contains no ingredients calculated to injure the public health. That this claim is unfounded may be plainly seen by reference to the appended list of patents for oleomargarine processes, which were first brought to the attention of the public by Commissioner of Agriculture Colman. By a careful perusal of these it will be seen that in nearly all of these patents the ingredients are animal fat, lactic acid, peanut oil, almond oil, olive oil, soda, pepsin, cottonseed oil, slippery elm bark, saltpetre, borax, coloring matters of various kinds, salicylic acid, benzoic acid, caustic soda, butyric ether, glycerine, annatto, orris root, sunflower oil, and other equally inviting articles. No one of the processes contains all the articles I have enumerated, of course; but I, for one, would not knowingly take the risk of eating any one of them on my bread. If there is no other ground upon which restrictive legislation could be based—such is the damage done to one of our most important national industries, and to our national reputation abroad—the preservation of the public health from the injurious effects of such articles as I have enumerated should be of itself quite sufficient.

Here are some of the patents that have been granted within the past ten years, as shown by a paper read by Commissioner Colman before the National Butter, Cheese, and Egg Association in Chicago recently:

In 1875 a patent was granted to Garrett Codine, of New York, for a method of making artificial butter from sour milk, animal fat, lactic acid, peanut oil, almond oil, and olive oil; also to John P. Kinney, from animal fat, soda ash, and salt.

Patent to Hippolyto Mege, 1878. Fats of all animals reduced by novel methods; oleomargarine mixed with milk, combined with bi-carbonate of soda and pepsin from prepared cows' udders, coloring matter added and churned.

Patent to G. H. Webster, Chicago, Ill., 1882. Lard, buttermilk, tallow, and pepsin, mixed with half its weight of pure butter, then worked with the hands until attaining the consistency of butter.

Patent to S. F. Cochrane, Massachusetts, 1882. Compound to be used in place of butter and lard for cooking purposes; "gall and kidney beef suets," lard, cottonseed oil, and ground slippery elm bark.

Patent to Alfred Springer, Cincinnati, O., for artificial butter, 1877. Method of treating animal fats by mixing with salt, saltpetre, borax, boracic acid, salicylic acid, and benzoic acid.

Patent to Oscar H. Combe, Washington, D. C., 1882. Substitute for butter called butteroid. Cottonseed oil reduced by caustic soda emulsified with corn starch, previously cooked and seasoned with salt, colored and flavored with butyric ether.

Patent to Oscar H. Combe, Washington, D. C., for substitute for lard called oleoard. This process is similar to the other, being a mixture of cottonseed oil with cooked farinaceous flour.

Patent to Hugo Barthold, New York City, 1882, for artificial butter. Composed of oleo oil and milk churned, sugar, glycerine and annoto added, also benne oil.

Patent to George S. Marshall, Everett, Mass., 1882, for a "compound for culinary use." Composed of stearine, vegetable or cottonseed oil, and orris root.

Patent to Nathan I. Nathan, New York, 1882, for artificial butter. Made of leaf lard, treated with a solution of nitric acid and borax, afterwards washed with cold water. The product is then mixed with oleomargarine, heated to 95 degrees Fahrenheit. Milk and sugar are then added, and the mass churned. It is then refrigerated, solidified, salted, and prepared in rolls or blocks for market.

Patent to Otto Boyson, Buffalo, N. Y., 1881, for substitute for butter. Combination of oleo oil, bi-carbonate of soda, and butyric acid; uses no milk.

Patent to W. H. Burnet, Chicago, Ill., 1882, relates to improvements in artificial products resembling and intended to take the place of butter. Ingredients—hogs' lard, beef suet, cream, butter and glycerine, salt and coloring matter, glycerine being employed to give and retain sweetness to the product, and at the same time giving greater coherence to the body with which it is incorporated, and preventing adhesion to the knife, etc.

Patent to William Cooley, Waterbury, Vt., 1882, for artificial cream. This process is to mix oleo oil, olive or other vegetable oils, with skim milk, one part of the former to three of the latter, heating them separately to about 150 degrees Fahrenheit, blending them when heated. This enables each globule of the oil to become coated with the caseine in the milk, hence, when treated with rennet, adapted for making cheese. When this artificial cream is used for making butter it is allowed to stand a day or two to become acid before churning.

Patent to H. Laferty, New York city, 1882, for artificial butter. Milk is treated with sal-soda, then mixed with oleo oil, coloring matter added, churned, salted, etc.

Patent to John Hobbs, Boston, Mass., 1882, for artificial butter. His method is to make an emulsion of cottonseed oil, benne oil or mustard oil, and combine with oleomargarine and milk.

Patent to H. R. Wright, Albany, N. Y., 1882, for artificial butter, styled creamine. A combination of oleo oil, lard oil, butter oil and cream, mixed with oil of sesame, benne oil or oil of sunflower seed, or cottonseed oil, colored with annoto, with the addition of sugar and salt.

These processes and others that do not appear in this list are in use in factories all over this country, and the compounds they produce are surreptitiously placed before the public by conscienceless dealers, who crave sudden riches at the expense of honor, honesty, and the health of their fellow beings. If this nefarious traffic is not checked by the strong hand of the law the result will be ruin to the dairy interest.

From the discussions of chemists, experts, and others—for from the manufacturers of these compounds little satisfactory information can be gained—a prominent dairyman of Iowa, one of the leading Western butter States, has found that five grades of butterine (the modern name for Meg's product) are made. The first grade, or finest quality, contains 40 per cent. of fine creamery butter, 50 per cent. deodorized lard, and the other 10 per cent. is made up of stearine or tallow oil, with colorings and chemicals to give a fine butter taste and aroma to the compound. The next grade to this contains about 30 per cent. fine butter, and the third grade contains 20 per cent. fine butter. The fourth grade contains about 40 per cent. of ordinary dairy butter, and the remainder lard and stearine, chemicals, and coloring. The fifth grade contains about 25 per cent. of dairy butter, the remainder being lard, etc. The cost of the in-

gredients of this butterine may be reckoned about as follows: 40 pounds fine creamery butter, 25 cents per pound, \$10; 50 pounds leaf lard, 6 cents per pound, \$3; 5 pounds stearine, 8 cents per pound, 40 cents; labor, salt, and sundries, \$1.60. Total cost of 100 pounds, say \$15, or 15 cents per pound average cost. Sold by the manufacturer at 20 cents per pound, it gives him a profit of five cents on every pound made; and retailed by the grocer at 25 cents per pound it gives him a profit of \$5 on every 100 pounds sold. The other grades are scaled in about the same proportions, the lowest priced article of butter being 13 cents per pound. All the processes under which the butterine is made are covered by United States patents.

"In one factory which I visited," said this gentleman, Hon. Joseph Sampson of Storm Lake, Iowa, "I found that the owner had been obliged to change his engine three times during the present year with a view to increasing the capacity for greater production of his 'fine creamery butter.' At first he only had a capacity of 10,000 pounds per day, he said, but now, he added, with a self-satisfied air, 'I can make 55,000 pounds per day; and if I had orders enough I could make more by running night and day.' I accompanied him into his refrigerator and shipping room and saw the 'butter' ready for shipment in all sorts of packages, ranging from the five-pound box for select family use up to the fifty-six pound tub, designed for the pineries of Wisconsin and the mining camps of Colorado and Montana. 'How do you brand it?' I asked him. 'Oh,' was the reply, 'anything a man pleases. Anything we are asked to put on we put on to suit the fancy of the customer.' When I wanted to see the lard hashing machines in the upper rooms of his factory, he smiled and shrugged his shoulders, and declined to accompany me to the place where the lard was getting its initiatory baptism of chemicals."

All the manufacturers he visited frankly admitted that when the butter left their factories it lost its identity, and was sold by retailers everywhere for first-class creamery butter. In his quest he learned also that many grocers engaged in the traffic made it a practice to keep low grade, rancid dairy butter in stock, side by side with the oleomargarine product, and ask their customers to try the samples and judge which was the best. This, he said, was a favorite trick in the Chicago retail trade.

## OLEOMARGARINE NOT WHOLESOME.

"Soon after I made my first annual report," said State Dairy Commissioner Brown, speaking of his recent report, which is regarded as a very valuable contribution to what may be termed the literature of oleomargarine, "and when I had become thoroughly awake to the magnitude and the iniquity of the traffic in counterfeit butter, and the evils it gave rise to throughout the State, I determined to institute a thorough investigation with a view of satisfying myself upon what I regard as the main question, Whether oleomargarine is wholesome or not. It was obvious to me that if it was wholesome as an article of food, the only legislation that could long endure would doubtless be as to regulations for its sale; but if unwholesome, that its sale could be absolutely prohibited. When I began this investigation, I secured the services of Drs. Elwyn Waller and Edward D. Martin, of the School of Mines, Columbia College, both chemists of established reputation and acknowledged skill. Their labors, together with those of other gentlemen, including Dr. R. D. Clark of Albany, who assisted them, have been extended over a period of about eight months, and have resulted in proving, beyond the peradventure of a doubt, that the product so largely sold here and elsewhere for human food is unwholesome. They established, by a series of experiments on oleomargarine manufactured in accordance with the formulas laid down in the patents, and with fresh beef fat as the chief constituent, that these artificial butters are so decidedly insoluble and indigestible as to be utterly unfit for human food. One of their experiments, which is described and illustrated in the report, was in artificial digestion. I am not enough of a chemist to give you a technical description of the process, but I can tell you that samples of the counterfeit butter that were subjected to the fluid representing the gastric juices, retained their consistency and solidity for

hours longer than samples of pure dairy butter that were similarly treated. This is not the result of one experiment, but of many, and in some cases the sham butter retained its form and consistency for two hours or more after the genuine article had dissolved. I must refer you to the report for a more detailed description of these interesting experiments, and only desire to say that as the result of our investigations we find that these artificial butters are unwholesome upon four different grounds:

"First—On account of their indigestibility.

"Second—In insolubility when made of raw animal fats.

"Third—On account of the strong probability, amounting to a moral certainty, that the bacteria contained in the raw animal fat (where the fat comes from animals that have died without the intervention of the butcher) are not destroyed by the processes of manufacture, and that disease may ensue from its use as human food.

"Fourth—The strong probability that these counterfeit butters, when manufactured by unskilled and unscientific workmen, contain ingredients that are deleterious to public health."

"We show also in our report," continued the commissioner, "that oil made from the bodies of horses, dogs, and other animals can be so deodorized as to remove all offensiveness, and be made tasteless, and, thus disguised, the most expert chemist cannot tell whether it came from an animal that died of disease or by the hands of the butcher. An eminent chemist who experimented with lard made of fat taken by his own hands from the body of a hog that was suffering from cholera, and with that of a healthy hog that was killed in his presence, officially reported to the department: 'I am not able to distinguish the lard made from the healthy hog from that made from the hog that was suffering with cholera.' It has been established by the testimony given by oleomargarine manufacturers before the Senate committee that the oleomargarine processes use no heat greater than 140 degrees—the majority seldom use over 110 degrees—while chemists declare that bacteria existing in animal matter cannot be destroyed by heat of less than 212 degrees. This I mention as a proof that where diseased fat is used, as it undoubtedly is in some instances, there is imminent danger of disease. The competition in the manufacture of these counterfeits, and the low price at which they are now selling, are apt to prompt many unscrupulous manufacturers to make use of the fat of animals who die in transit or of disease, and which are cheap; and thus you see all who spread these counterfeits over their bread are endangering their health.

"One of the arguments used by the manufacturers to prove the wholesomeness of their products was the approval they received when Mege's invention was first introduced from the French health authorities. This shred of consolation has been recently withdrawn from them, the French Government having lately revoked this approval and pronounced oleomargarine indigestible."

"The manufacturers of oleomargarine," said a prominent member of the Butter and Cheese Exchange, "claim that their product is wholesome, and that it is practically the same as natural butter. That claim was specifically made before the health committee of the Legislature that investigated the subject in 1884, and I was present at some of the sittings at which the testimony proved that the claim was as fraudulent as oleomargarine itself. Here is the testimony of Charles Moses, of No. 41 First Street this city, who was a laborer in an oleomargarine factory on Grove Street. His duty was to pack the product in tubs. This factory was one of those in which imitation roll butter is made. The witness described the process of packing, which had to be done by hand, and being asked what effect this had on his hands replied:

"It made holes in them, and they began to get sorer and sorer, and I finally lost a nail. The stuff eat right through to the bone. My hands swelled up, and the stuff that dripped through from the floor above that on which I was working wore holes in my clothes, and that on the floor eat into my boots.' This witness said that in consequence of injuries received in this way he had to go under treatment at Bellevue Hospital. He was severely cross-examined

by the shrewd lawyers employed by the oleomargarine interest, but I did not think that his testimony was impaired.

"I only quote this as proof that certain acids are used in the oleomargarine processes that are injurious to health. If they were strong enough to 'eat through to the bone,' as this witness swore, and to eat into his boots, what must their effect be upon the human stomach? Mind you, this man was handling the product prepared for the market. It was in one-pound and two-pound rolls (to imitate merchantable butter), each roll being wrapped in a cloth. He packed the rolls in tubs, and the mere handling of them produced the results stated.

"There is plenty of such stuff as this coming to this market from the West every day, and yet these manufacturers have the impudence to say that their product is wholesome. I tell you that there is very little honest oleomargarine made in these days. I use the word 'honest' advisedly, for when the product first came into vogue it was honest, inasmuch as it was sold for what it was, and not for natural butter. But of late years a class of unscrupulous men have gone into the business, which realizes enormous profits, and by using cheaper processes and material that is not fit for human food, have brought it into general disrepute."

With regard to the wholesomeness of butterine and other sham butters, an essential point, there are wide differences of opinion. Leading chemists pronounced oleomargarine, when it was first introduced, as wholesome, but it is a question whether they would commit themselves to a similar opinion with regard to the product as at present sold, in view of the tremendous competition among manufacturers and the temptation to use materials that are impure and cheap. Col. Robert M. Littler, secretary of the National Butter, Cheese, and Egg Association, said recently: "Anybody who says that butterine is healthful and wholesome either does not know what he is talking about or else lies. Why are there so many tapeworms and so many cases of Bright's disease since butterine came into use? The embryo tapeworm exists very freely in leaf lard. This lard must be cooked if you want to destroy the animalculæ. It is not cooked; it is only warmed in the manufacture of butterine. I can show any one, by the use of the microscope, the animalculæ. When a hog has them bad it is called measly. No matter how carefully it may be prepared, butterine contains acids that are not to be found in butter. There is a very easy way of proving this. Put calomel into butterine and you have corrosive sublimate. The Lord only knows how many people have been mysteriously poisoned by taking a dose of calomel after they have eaten butterine. In many instances the process of deodorizing lard renders the product a deadly poison, and the only reason why fatal results do not immediately follow is because it is taken in such small quantities.

## RUINING THE EXPORT TRADE.

The following from *The New York Star* of January 5, 1886, comes from one of the leading butter merchants of the country, and is the expression of the views of a practical man of business who has been prominently identified with the anti-oleomargarine movement since its inception:

"You can hardly mention an interest in our country," said ex-President James H. Seymour, of the Mercantile Exchange, who is also well known in the butter trade, "that is not protected, save that of the farmer. The only tariff protection that agriculture receives is the duty on wool, and that applies to comparatively few farmers. Iron, silk, and dozens of other articles that could be mentioned are protected by heavy impositions on foreign goods, but what the farmer produces is unprotected. The dairy interest is one of the largest and most important industries of our country, and represents a large portion of the income of a majority of our farmers, especially in the State of New York, which cannot compete with the West in the production of grain; and yet our national rulers seem loath to take any action looking to its production. It seems to me that if this traffic in counterfeit butter, not only at home but in foreign lands, where it makes the name of America a byword and a reproach, were properly

represented in Congress, prompt action for its suppression or regulation would speedily follow.

"I believe that the consumption of butter to-day is 30 per cent. less than it would be but for the almost universal sale of these counterfeit, deleterious products of the oleomargarine factories. I believe also that large numbers of dwellers in cities abstain from the use of butter entirely for fear of getting hold of the bogus stuff, and I know personally of several families at whose table butter no longer appears.

"In years gone by American butter maintained a deservedly high reputation in Germany, and was largely exported to that country, but since the advent of oleomargarine (or butterine as it is called now, since its original name has grown into well-deserved disrepute) the German authorities, who keep a close watch on the food products sold to the people, and visit adulteration with severe punishment, have issued orders that no American butter shall be received in future until after it has undergone a thorough chemical test to establish its genuineness and purity. This is in one sense a compliment to the skill and ingenuity of the oleomargarine manufacturers, for it shows they turn out a product calculated to deceive even the best experts; but the mercantile community, the basis of whose foreign trade is their unblemished honor and their reputation for fair dealing, view this new order with sorrow. They cannot blame the German authorities, for their action was brought about by the importation of thousands of pounds of sham butter or oleomargarine oil out of which to make it, and was taken purely in self-defense. But they do blame their own government for failing to so regulate this nefarious traffic as to prevent the possibility of such wholesale swindles.

"So long as this stuff, made of the refuse of the stables and the shambles and of other materials that make one shudder to think of, is manufactured in the West—and I believe that the greater proportion of the most worthless grades of oleomargarine comes from that section—is shipped to this market as butter, I cannot see how the legitimate trade can be protected. It comes in quantities over the railroads, paying freight as butter, and, in spite of the law prohibiting its sale, gets into the hands of conscienceless retailers and then figures on the tables of our citizens as dairy or creamery butter. The manufacturers shield themselves from the penalties of the law by selling the product under its own name, but they know as well as I do that it cannot be sold in this city except as natural butter. Is not this offering a premium for crime? The retailers, when arrested and arraigned in court, always deny that they represented the article as butter, but in nine cases out of ten the proof that they did is produced, and this fact the manufacturers must know.

"What we need is a national law regulating this traffic, and if we get the law we want to see it enforced. Prohibition of the manufacture of oleomargarine is, I think, out of the question, but it is generally conceded that Congress has the power to regulate interstate commerce, and an act of this nature would come within its province."

The exports of oleomargarine have increased rapidly since its introduction, so that where they only reached one-half of the exports of the genuine dairy product in 1880 they now about double them. The annual average of decrease in the exports of butter between 1880 and 1885 was 9,510,706 pounds, while those of oleomargarine have shown an annual average increase of 2,647,000 pounds. The figures appended show the recorded exports of butter and oleomargarine for the years named, but there is reason to believe that a considerable amount of the latter was exported as butter.

	Butter.	Oleo.	Total.
1880 .....	39,236,650	20,000,000	59,236,650
1881 .....	31,560,500	26,300,000	57,800,500
1882 .....	14,794,300	22,000,000	36,794,300
1883 .....	12,348,640	23,400,000	35,748,640
1884 .....	20,627,374	39,322,841	59,950,215
1885 .....	21,683,148	37,882,155	59,565,303

By these figures it will be seen that while the exports of butter decreased 18,609,276 pounds.

in 1884 and 17,553,502 pounds in 1885 (as compared with the exports of 1880), the increase in the exports of oleomargarine (comparing the years 1880 and 1885) was 17,882,155 pounds, and in the last two years the exports of the bogus article have almost doubled those of the genuine. The loss to the foreign trade of the United States by the substitution of oleomargarine for butter is not shown by quantities, but by values. In 1885 the aggregate value of the exports of butter and oleomargarine was \$8,095,278, that of butter being \$3,643,646 and oleomargarine \$4,451,632. If butter had taken the place of oleomargarine in the exportation the aggregate value would have been about \$10,000,000. Upon the assumption that the exports of butter were decreased in proportion to the amount of oleomargarine exported, the loss to the butter makers was \$6,357,000 and to the foreign trade \$1,915,000.

Mr. C. L. Smith, of Rice & Smith, well-known exporters of butter, called upon Assistant Dairy Commissioner Van Valkenburgh early in January, and asked him for copies of the laws of the State of New York covering the manufacture and sale of oleomargarine and its compounds. He explained that he had been requested by a member of the English Parliament to forward him these laws and such other information regarding counterfeit butter as he could obtain, his object being to prepare an act prohibiting the importation of the product into Great Britain.

In connection with this, the following extract from the *London Lancet*, an eminent authority on questions of public health, may not prove uninteresting :

"Owing to the large importation of butterine and the sale of this article as butter, it is impossible to produce, import, and sell pure butter at a profit. Butterine can be sold at £3 13s (about \$17.50) per hundred weight (112 pounds), while imported butter sells at £5 9s (about \$26.50) per hundred weight. There may not be much difference in the nutritive value of these two fatty articles of food, if digested and assimilated, but there can be no doubt of the dietetic value of the one over the other."

Commenting upon this, the Chicago *Dairyman* says: "There can be no doubt that the large importations have depressed the market in England and Ireland to an extent that is seriously oppressive to the dairy farmers, who find their receipts for October butter ruinously small. The foreign market and the English dairymen are not the only parties suffering from this product and its fraudulent sale; for on this side a similar decline has been experienced, and dairy products rule at prices that are very discouraging. There can be no doubt that, put upon the market without disguise, in fair competition with honest goods, butterine would find its level and straight butter prove remunerative. The consumer is also interested in obtaining a pure article of butter, and none can be pure that is not the product of the dairy; but it is a serious question whether hog fat or beef fat made into butterine is a suitable substance for human food. It is also a question whether the process of manufacture, the treatment with acids, while it renders the stuff pleasant to the sight and agreeable to the taste and smell, does not also make it indigestible and unfit for human food."

## WHAT REPUTABLE RETAILERS SAY.

The retail traffic in oleomargarine, so far as New York city is concerned, is confined mainly to a class of cheap grocers, who are allured by the tempting profit in its sale to risk the punishment for violating the law. Appended are the views of a few well-known retailers:

"We have never sold oleomargarine in our store," said Mr. Callahan, of Callahan & Kemp, the Vesey street grocers, "although since the introduction of the article we have been almost daily importuned to do so. When the counterfeit stuff first came into general use, several years ago, an agent representing a certain manufacturer called upon us with samples of his wares. We smelled and tasted them, and found them to be very clever imitations of butter, but at the same time we declined to enter into the traffic, although at that period there was no special law prohibiting it. Our position in the matter was that, as legitimate traders, we could not afford to deal in imitations of any sort, knowing them to be imitations. The agent declared that a majority of the leading dealers in our line of business were selling the article and

realizing handsome profits, but in spite of this we persisted in refusing. Then he predicted that in the course of time we would be forced, in self-protection, to do as others were doing. That was more than five years ago, and we have never had occasion to change our course yet. Sometimes we receive orders from country dealers for small lots of oleomargarine, and these we fill, but we buy it from the factory and send it directly away, so that we may truly say that no bogus butter ever enters our store. I believe that oleomargarine, as it was originally made, and as it was sold when it was first introduced, was wholesome; and I would not object to its sale now, always providing that it were sold as oleomargarine, and not as butter. I believe, too, that much of the bogus compound that is now sold is not wholesome, since it seems to be reasonably well established that the competition in the manufacture of the product has prompted unscrupulous men to make use of materials that are not fit for human food, and to employ processes in the manufacture that are dangerous to public health.

"If the manufacturers would agree to allow their product to be sold on its merits, to have it placed before the consumers as oleomargarine, or—if they prefer the name—as artificial butter, there would be no opposition on the part of legitimate dealers. But this they will not do. All their efforts seem to be directed toward deceiving the consumers. If they are honest in what they claim, that their product is equal to most dairy butters and superior to the lower grades, why do they send it to market in packages designed to imitate those used by legitimate dairymen and creameries? Then again, although they sell the stuff as oleomargarine or as butterine, or under any of the names that the compounds have assumed, they must know that the retailers whom they supply dispose of it in most cases as natural butter. They individually comply with the law, in that they sell their sham product for what it is; but do you for an instant suppose that these bright, enterprising business men, who keep themselves well informed in all matters concerning the trade they are interested in, are not aware that they are accessories to the violation of the law? Do they not know, as you and I do, that not one out of a thousand of the consumers of butter in this city would buy artificial butter when it was presented to them in its true colors? As far as we are concerned, we will have nothing to do with this artificial stuff. We look upon butterine—the latest name of the swindle—as one hundred times worse than the original oleomargarine, and as far as we are concerned we shall decline to deal in imitations of any kind."

"Do you think there is any great quantity of oleomargarine or butterine sold in this city at present?"

"I have no means of knowing definitely how much is sold, but any dealer in butter will tell you that his sales have fallen off, that the prices have been reduced, and that the business is in a bad way. I know of houses in this city where the same grade of oleomargarine is sold from different tubs as fine or medium dairy butter at from twenty-five to thirty-five cents a pound, and yet, notwithstanding the difference in the retail price, the stuff sold is the product of one factory."

Mr. Benjamin F. Smith, of Washington Market, who is one of the oldest and best known dealers in the butter trade, said that, so far as he knew, no bogus butter was now being sold in the market. "The fact is," continued Mr. Smith, "that all the dealers are bitterly opposed to the traffic and keep a sharp lookout for violations of the law. If any dealer tried to retail the stuff he would get into trouble, and so for the past year or so the traffic has been suspended. Of course, if people come to us and ask for oleomargarine or butterine, as they occasionally do, we get it for them, but the understanding is that we sell it for what it is."

"The oleomargarine men claim that they do not imitate butter, but that their product is intended as a substitute for that of the dairy. In what shape does oleomargarine come to market?"

"You might just as well ask me in what shape dairy and creamery butter come, for there is scarcely a package used by the dairies or creameries that is not imitated by the manufacturers of the bogus compounds of beef and hog fat, nitric acid, and other choice ingredients. Here I have some Western creamery. You see it is packed in layers in ash tubs. In the trade they

are called Welsh tubs. Well, I can get you oleomargarine and butterine that is put up in exactly the same way. There is a half-firkin tub of State dairy butter, a famous medium brand, and next to it stands a tub containing State creamery butter. These, too, are closely imitated, and if a dealer is not an expert and able to judge he is liable to be imposed upon. Some of the fancy priced butter comes in one and two pound rolls, stamped and covered with linen cloth, and arranged in a box on sliding shelves. This style, too, the oleomargarine men imitate, and the average consumer, who too often takes the package as an index of the contents, is very often deceived."

"Do customers ever ask you whether your butter is genuine?"

"Our regular customers know us, and do not need to ask; but transient customers very often inquire whether our butter is genuine or dairy. I have never tried it yet, but I believe that if I put some sham butter on my stand and offered it to my customers as they came to make their purchases, taking care to inform them exactly what it was, there is not one out of a hundred that would buy a pound of it. You can put it down as a fact that only the cheap restaurants and boarding houses buy oleomargarine on its merits. They purchase it largely, and know exactly what they are buying; but, when the average consumer invests in the stuff, it is because he is led to believe that he is buying the genuine article."

Mr. H. Rohr, grocer, of No. 574 Seventh avenue, a leading member of the Grocers' Retail Union, said: "This infamous traffic in bogus butter is rapidly ruining our trade, so far as dealers of moderate capital and of recent establishment are concerned. Many customers that formerly bought butter from the grocer in the neighborhood now prefer to go to dealers of established reputation, such as Acker, Merrall & Condit or Park & Tilford, for instance, of whom they are morally certain to obtain nothing but the genuine article. In the last three years, owing to the lack of public confidence caused by the almost universal sale of these vile compounds, the retail trade in butter has fallen off fully 33 per cent., and if some action is not taken soon by the authorities I fear that the falling off in the future will be greater still. While my own business, taking the sales of sugar and other standard groceries, has increased probably 50 per cent. in the past four years, my trade in butter has decreased nearly as much, and I suppose there are hundreds of other reputable retail grocers who will tell you the same story. My only transaction in bogus butter occurred about a year ago, and illustrates very aptly one phase of the traffic. One day an old lady, who kept a boarding house in my neighborhood, came to my store and asked me if I ever sold oleomargarine. I told her that I did not deal in it. She asked me whether I could get her some as a special accommodation. I went to a factory and bought a single tub, of which the old lady purchased fifteen pounds. Soon afterward she visited me again and asked me to enter the oleomargarine on my bill as butter, explaining that if her boarders complained of the stuff and asked any questions she wanted to have my bill to show. 'Don't you see, madame,' I answered, 'that that would render me amenable to the law?' Well, the old lady refused to buy any more, declaring that she would go to the factory in future for her supply, and I sent back what remained in the tub to the manufacturer. I have no doubt that many grocers are furnishing boarding houses with butter on the terms proposed by the old lady to me, but I could not afford to do it. I am willing to sell oleomargarine if a customer asked for it, but I will only sell it as oleomargarine."

## HOW THE EXECUTION OF THE LAW IS OBSTRUCTED.

The appended interviews with counsel of the State Dairy Commissioner will serve to show how the violators of the law resort to all possible subterfuges to evade the penalties it imposes, and also give some important information as to other statutes governing this nefarious traffic:

"There has been considerable misconception among retail dealers as to the status of the laws regarding the manufacture and sale of oleomargarine," said Mr. Frank Oliver, the counsel in this city for the State Dairy Commissioner, "and for some time after the announcement

that the Court of Appeals had declared the act of 1884 unconstitutional, the prevailing belief among them was that they might go on selling their compounds of beef fat, neutral lard, and artificially colored counterfeits of natural butter with impunity. A few timely arrests disabused their minds of this erroneous impression, but there are still numbers of them who persist in evading the law. Thus far there has been only one conviction in the Court of Special Sessions for violations of the law under the latest act, and this was on the confession of the defendant of his guilt, and one in the Court of General Sessions. The latter is the case of Benjamin J. Hill, a Harlem grocer, who was accused of selling oleomargarine or butterine as butter. In the affidavit upon which the charge was made, which was sworn to by one of the Commissioner's inspectors, it was asserted that Hill had offered to sell him a quantity of butter, but failed to inform him that it was an imitation of the natural product, and also that the deponent had closely inspected the tub containing the so-called butter, and found upon it no brand or printed label, as required by law, designating it as oleomargarine. The bogus butter thus produced the inspector submitted to Charles W. Stillwell, a professional chemist, for analysis, and it was found to be a compound of animal fat, curd, salt-water, and coloring material, and to contain no characteristic of the genuine article save in color."

"Can you give me the certificate of analysis in that case?"

"No. I have no copy of it. But all the compounds are very much alike, and this, which is the certificate of analysis in another case, will serve equally well. Here is the analysis:

Animal and butter fat.....	87.41
Curd.....	1.30
Salt (ash).....	2.91
Water at 100 deg. C.....	8.38
	<hr/>
	100.00

"Here is another which shows 85.01 of animal and butter fat, 1.09 of curd, 2.36 of salt (ash), and 11.54 of water. Appended to each certificate are the words: 'This sample is composed mainly of animal fat, and was not produced from unadulterated milk or cream from the same. It was not produced from milk or cream alone. It contains coloring matter, whereby it is made to resemble butter, the product of the dairy, and it is in imitation and semblance of butter produced from unadulterated milk or cream from the same.'

"You will observe that this certificate does not specify what sort of animal fat is used, nor the materials used for coloring. It may be the fat of beef cattle, or of horses, or of hogs, or, in fact, of any animal; but it is not necessary in these proceedings to go into details. It is sufficient to demonstrate to the satisfaction of the court that the product is not what the seller represented it to be to the purchaser, as herein lies the violation of the law.

"There are other laws under which we can take action against these sellers of bogus butter besides that of 1885, and the decision of the Court of Appeals in the so-called test case (that of the people against Marx) clearly points out the fact of their existence. Section 403 of the Criminal Code provides that any person who sells, or manufactures, or offers for sale for human food any substance in imitation of any such food product, without disclosing the fact that it is an imitation, and displaying a suitable and plainly visible mark that it is an imitation, shall be deemed guilty of a misdemeanor; and Section 407 provides that any person selling food or drink, adulterated or diluted, as unadulterated or undiluted, without first disclosing the same and informing the purchaser of the bogus nature of the product, shall be deemed guilty of a misdemeanor, and be subject to an imprisonment not exceeding one year and a fine not exceeding \$500.

"This section clearly provides that the intention to defraud shall be shown, and it is held that the withholding of the information as to the fraudulent nature of the product by the seller would be positive evidence of intent to defraud.

"My experience of the trial of cases of this kind has been somewhat limited, but in all the cases that have so far come up the defendants have invariably denied that they represented the stuff they sold to be butter.

"In the Hill case notice of appeal was given after the close of the trial and the payment under protest of the fine of \$100. It should come up before the Court of Appeals at an early day, but I have not seen it on the calendar for the next sitting of that tribunal. There are now pending four cases in the Court of Special Sessions, and thirty-three in the Court of General Sessions. There have been complaints as to some of the minor courts that proceedings of this nature were unnecessarily delayed in order that the judges below might await the opinion of those in the higher court; but I do not attribute the delay to this cause. In the case of the Court of General Sessions, where the calendar is overcrowded, oleomargarine cases must wait, as liquor license cases do, and hence it is that nearly all the dealers arrested elect to be tried in that court. In many of these cases a civil suit is pending for the recovery of the \$500 penalty for the violation of the law, but many dealers have preferred to pay the penalty rather than go to trial.

"The four cases that are to come before the Court of Special Sessions will be heard next week. They are all for selling oleomargarine for butter, as are all that have been acted upon hitherto, and the defendants are John H. Lyddy, John Howell, Charles H. Rohrs, and Herman Schnaars, all grocers."

At the time of the trial of the Marks case in the Court of General Sessions, and after notice of appeal had been given, the dealers in oleomargarine asserted openly that no more trials for violations of the act of 1885 would be held until after the decision of that appeal by the court in Albany. They intimated that the ground for their assertions came from the office of the district-attorney. Several members of the trade who were deeply interested in the suppression of this nefarious traffic and the enforcement of the law called upon District-Attorney Martine, who had then newly assumed office. He assured them that he was in ignorance whether any such agreement had been entered into by his predecessor, and declared that if any arrangement of that sort had been made it would not influence his action. And that it did not was evidenced by his subsequently bringing several cases to trial. That they were postponed was due to the crowded condition of the calendar.

"You can scarcely conceive to how great an extent this fraudulent traffic in counterfeit butter, whose component parts are animal fat, nitric acid, and other deleterious articles, is practiced by unprincipled grocers and others," said Mr. Arthur C. Salmon, the counsel for the State Dairy Commissioner in the City of Brooklyn and Kings County, when asked as to the progress made by the department in its efforts to enforce the law. "I came across a case not long since in which it appeared that five different samples of alleged pure butter were purchased at a single store for as many different prices, and each of these samples proved, upon analysis, to belong to the same grade of oleomargarine. It is not unusual for dealers in this counterfeit butter to sell the contents of a single tub at as many as three different prices, the rate being fixed in each case entirely by the character of the customer.

"We have detected oleomargarine in the stores of dealers in every part of the City of Brooklyn, some of whom seemed to be above suspicion; but I believe that at present very few first-class grocers handle it. As to how much bogus butter is sold here it would be hard to say, but the latest statistics I have seen show that the sales in the State in 1884 amounted to 40,000,000 pounds. Inasmuch as the traffic has not been materially interfered with in many parts of the State, the increase in 1884 must have been considerable."

With regard to the act of 1885, which was passed while the test case was under consideration in the Court of Appeals, and which is referred to in their opinion, Mr. Salmon said:

"This enactment prohibits the manufacture or sale of any oleaginous substance in imitation or semblance of butter. It not only prohibits the sale of oleomargarine as butter, but if sold at all it must not be colored or made in imitation of cream butter. The intention

of the legislature is plain. All cases now being prosecuted by me are cases where the defendants have sold oleomargarine as butter, the product of the dairy, the sale being clearly a fraud upon the public, although they swear in court that it was sold for what it was. That seemingly respectable tradesmen should engage in such a traffic I cannot explain, except perhaps upon the hypothesis that the enormous profits to be derived from dealings in the cheap and bogus product tempt them to risk the chances of detection and prosecution. I am informed that the price of oleomargarine delivered at the factory is from eleven to thirteen cents a pound, and yet last winter I convicted a man of selling a pound of this stuff for thirty-seven cents, which was then the price of fine creamery butter. Is it natural to suppose that he sold this stuff to a purchaser who knew exactly what it was?

"The law of 1885 was one of the results of a very close and exhaustive examination into the healthfulness of oleomargarine by the Senate committee on public health. They heard a great deal of evidence pro and con, and unanimously favored the passage of the act. It may be possible to make oleomargarine in such a manner and of such materials that it will not be absolutely unwholesome; but how can that be guaranteed to the public? When you consider that as competition grows, as it does grow every day, its selling price is reduced, and the necessity for cheapening the materials and the processes of manufacture is increased, it is easy to see how great is the temptation to utilize material that is unfit for human food. When you consider further that this sham butter depends for its sale upon fraud and deception, and further still that it can be made of any animal fat, no matter in what condition or whence obtained, I leave it to you to decide whether you would regard it as a wholesome or safe article of food to give your children. They can still sell their bogus butter to those who want to purchase it, provided it is not colored or made in imitation of butter; but I fancy that their customers, should they try to sell their products on its own merits, would be few and far between."

Assistant State Dairy Commissioner B. F. Van Valkenburgh, who was appointed under the act of 1884, and who has had many years of experience in the butter trade, said yesterday:

"When the Court of Appeals decided against the constitutionality of the act of 1884 a good many cases of violation of the law were left on the calendar, and the impression among grocers was general that they could go right along selling bogus butter. It was hard to make them understand that the new law was in effect, but during the summer months, when trade was dull, we found very few violations of the law. In September, however, when the cool weather began to set in, there was a marked advance in the price of dairy butter, and this gave the conscienceless traders in the bogus stuff the opportunity they craved. Since September last we have made over one hundred arrests, and many of the cases are still pending in the courts. In nearly all of these, the defendants declared that they sold the bogus butter as oleomargarine, and in this their clerks unblushingly backed them up, but in no case did we make an arrest until we had sure proof that the product was sold as prime dairy butter. The temptation to deal in oleomargarine is a very great one, for the retailer can realize a profit much greater than that of a pawnbroker. He can buy the bogus butter for from eleven to fourteen cents a pound, and sell for from twenty-six to thirty-two cents a pound. They do not dare to sell it cheaper than this, for fear of attracting the attention of our inspectors; but we are generally provided with evidence showing that they represent their wares to be dairy or creamery butter. Some of the oleomargarine compounds that come to this market are such perfect imitations of butter in color, taste, and general appearance that only an expert can distinguish the difference. Even they are deceived at times by the tests of taste and smell, and have to resort to more severe tests.

"The manufacturers claim," continued Mr. Van Valkenburgh, "that they sell their product for what it is—oleomargarine—and this I am not in position to dispute. But the fact remains, and I can easily prove it, that in every possible way they send their wares to this and other markets so packed as to deceive the public. The product of some oleomargarine factories comes in what are known to the trade as Orange County pails; that of others in hickory-

hooped half-firkins called 'Delaware,' and of others in varnished iron-bound Jamestown tubs—packages that are all used by popular and reputable dairymen. Some have even gone so far as to make their product into rolls, packed in barrels, to simulate what is called roll butter. If, as they say, their dealings are honest and above board, why do they resort to such subterfuges? The fact of the case is that the manufacturer makes a good counterfeit butter, and the grocer shoves it. Of the profits of the former I cannot speak authoritatively, but I know that the grocer makes a bigger profit than the 'shover of the queer,' to use the slang of the police, and runs considerable less risk.

"What we need is law requiring that oleomargarine shall be placed on the market in its true form, in which the veriest tyro could never mistake it for dairy or creamery butter. It is of a chalky white, while good butter invariably has a yellow or golden tinge all its own. Thus far most of our prosecutions have been for selling oleomargarine as butter, but the law specifically forbids its sale when it is artificially colored to resemble butter, and that is the only form in which it is marketable."

### CONGRESSIONAL ACTION.

The recent agitation of the oleomargarine question has had the effect of awakening Congress to the enormity of the traffic in imitation butter throughout the country, and already several bills intended to curb and regulate it are pending in that body. Among these is one that was introduced by Hon. A. J. Hopkins of Illinois, December 21, 1885, was read twice, referred to the Committee on Ways and Means and ordered to be printed. It is entitled: "A bill to amend title thirty-five, entitled 'Internal revenue,' of the Revised Statutes of the United States," and provides that every manufacturer of adulterated butter or cheese shall furnish to the collector of the district a sworn statement containing the address of his factory, and shall give a bond of not less than \$5,000 not to attempt in any way to defraud the government of any tax on the product he manufactures; that he shall stamp all goods manufactured by him before he offers them for sale, and before they are removed from the factory, and that he shall post in a conspicuous place a certificate, to be obtained from the Internal Revenue collector, setting forth the capacity of his manufactory. This section (No. 3,406a) concludes with these words: "And every person who manufactures adulterated butter or adulterated cheese of any description without first giving bond, as herein required shall be fined not less than \$100 nor more than \$5,000, and imprisoned not less than three months nor more than five years. Any article or compound manufactured, in whole or in part, out of any oleaginous substances, oleomargarine, suine, butterine, beef fat, lard, neutral, vegetable oil, or other foreign substances other than that produced from unadulterated milk or cream from the same, and designed to take the place of butter or cheese, or to be sold or offered for sale as an article of food, shall be held to be adulterated butter or adulterated cheese under the meaning of this chapter, as the case may be."

The next section provides that every manufacturer of these products shall display a sign with letters not less than three inches long, giving his full name and the nature of his business. A violation of this section entails a fine of not less than \$100 nor more than \$500.

Section 3,406d will prove of special interest to the retail dealers who persist in violating the State law, and should this law pass, will be an effectual means of destroying the unholy traffic. It reads:

"It shall be the duty of every dealer in oleomargarine, suine, butterine, beef fat, lard, vegetable oil, or neutral or material used or to be used in manufacturing adulterated butter or adulterated cheese, on demand of any officer of internal revenue, to render such officer a true and correct statement, under oath, of the quantity and amount of such oleomargarine, suine, butterine, beef fat, lard, vegetable oil, or neutral, or materials sold or delivered to any person named in such demand; and in case of refusal or neglect to deliver such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the collector shall

make an examination of the person's books and papers in the manner provided in this title in relation to frauds and evasions."

Another section directs that all adulterated butter and cheese shall be packed in tubs, firkins, and packages that have not theretofore been used, and the use of an old package involves a fine of not less than \$100 nor more than \$1,000, and imprisonment of not less than six months nor more than two years. It is provided, however, that nothing in this section shall be construed as preventing the sale of adulterated butter or cheese at retail by dealers who have paid the special tax as such, from boxes, tubs, or jars packed, stamped, and branded in the manner prescribed by law.

The next section provides that each manufacturer shall affix to each box, tub, or other package containing his product, a printed label bearing his name, the number and the location of his factory, and these words:

"NOTICE.—The manufacturer of the adulterated butter (or cheese) herein contained has complied with all the requirements of law. Every person is cautioned, under the penalty of law, not to use this box, tub, or jar (as the case may be) for adulterated butter or cheese again." This notice to be printed in letters not less than one inch long. A neglect to comply with the provisions of this section, or the removal of a label so affixed to any package, entails a fine of \$50.

Section 3,406g provides that the manufacturers shall pay an Internal Revenue tax of ten cents a pound on adulterated butter and three cents a pound on adulterated cheese.

The other sections of the bill, which is voluminous, provides for the stamps to be used to distinguish the bogus from the genuine article; for the regulation of the inspection of adulterations; for the collection of the tax; for the prevention of the use of counterfeit stamps; for the taxing of all spurious butter and cheese imported from other countries, and declares that all bogus butter and cheese on hand after the 1st of April next shall be taken to have been either manufactured or imported after the passage of this chapter, and shall be stamped accordingly.

Section 3,406p is evidently intended to reach the retailers. It reads:

"Every person who purchases or receives for sale any adulterated butter or adulterated cheese which has not been branded or stamped according to law shall be liable to a penalty of \$50 for each such offense."

A leading merchant, who is a pronounced enemy to oleomargarine and all its relatives, said yesterday when a copy of this bill was shown him:

"I am glad that this subject is to come before Congress, for no interest more pressingly demands national protection at this time than that of the dairy man; but I am afraid that this law possesses too many of the faults that have rendered our State law practically inoperative, and that it will afford to the oleomargarine men the opportunity to pose before the public as martyrs. All honest men concur in denouncing the traffic in counterfeit butter, but my experience with legislators teaches me that any attempt at prohibition is generally frowned upon. How far this bill would put the Government in the attitude of acknowledging oleomargarine and its allied compounds as legitimate food products I am not prepared to say, for I have not had an opportunity to read it carefully. I will say, however, that it seems to aim to bring about just what the leading men in dairy products have long been urging, and that is the compelling of the men who sell the stuff to sell it for what it is. If it can accomplish that purpose it will do an immense amount of good, for I am convinced that if the people knew what they were buying they would infinitely prefer the natural product of the cow to any imitation. I think, however, that when the bill comes up for discussion, and when the national legislators find how thoroughly the people are opposed to the fraudulent way in which the oleomargarine traffic is carried on, and the injury it is doing to us at home and abroad, this or some similar measure will be adopted. It may be that they will prefer to consider the question as bearing upon the public health, and if they do take that view I think that facts relative to the materials and processes used in the manufacture of this stuff will be laid before them that will

justify prompt action. You may be assured, however, that this bill will meet with a tremendous lobby opposition, for the oleomargarine men are rich and determined, and have their agents not only in Washington, but at the capital of every State in the Union. I think, however, that the pressure of public opinion can overcome even this organized and desperate opposition, and that if this Congress does not act, the people will take care to elect another that will."

State Dairy Commissioner Josiah K. Brown, when asked his opinion of Mr. Hopkins' bill, replied: "The title of this act is somewhat misleading, because the compound commonly known as oleomargarine is in no sense an adulterated butter. It is simply animal fat made to imitate butter, and contains only a small percentage of butter fat.

"I am not prepared to express an opinion as to the provisions of the act, for I have merely glanced at it; but I will say that if the national Government decides to take action upon this question of the sale of sham butter, it would be wise to intrust the enforcement of the law to the Internal Revenue Department, which has the necessary machinery to undertake the work. It would be unwise, in my opinion, on the part of Congress to enact any law on this subject without careful consideration and exhaustive discussion. If I made any recommendation it would be that Congress pass a law compelling manufacturers, in case the bogus product is to be sold at all, to put before the people an article that could not by any possibility be mistaken for butter—an article that a child could recognize on sight and without explanation. It is a notorious fact that these manufacturers make and pack their product so as to imitate natural butter of all kinds, and the trade they are engaged in is a monstrous and infamous swindle upon the consumers.

"In this State the law takes the ground, and justly, as I can prove, that the stuff is unwholesome. Section 20 of chapter 183 reads: 'This act and each section thereof is declared to be enacted to prevent deception in the sale of dairy products, and to preserve the public health, which is endangered by the manufacture of the articles or substances herein regulated or prohibited.' This is as plain English as can be desired and nobody can dispute the right of a government to protect the health of its people."

## THE LAWS OF THE DIFFERENT STATES.

The last annual report of Dairy Commissioner J. K. Brown, of New York, contains a succinct presentation of the status of dairy products in all the leading States of the Union. He has not confined himself to New York in his researches, but has obtained information on this vital and important subject from all parts of the country. While Commissioner Brown is understood to hold strong prohibition views, the portion of his report bearing upon his recommendations has not yet been made public; and whether he will recommend a more stringent law or not cannot now be definitely asserted. The facts he gives relative to the laws in other States, however, are well worthy of reproduction here.

Of the thirty-eight States in the Union, all but ten have laws governing the manufacture and sale of sham butter. These are Alabama, Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Nevada, North Carolina, South Carolina, and Texas, none of which rank very high among the butter-producing States. Of the Territories, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming are as yet unprotected by laws against the swindle. In all the other States and Territories there are laws guarding one or all of the branches of dairy production. In California, where the butter produced in factories and creameries, not counting that made by the farmers, amounted in 1880 to 2,074,344 pounds, manufacturers and dealers in oleomargarine are required to brand the article with its proper name. The law also requires hotel keepers, restaurant keepers, and others who feed the public for pay to keep posted up in three conspicuous places a notification to customers that their bread must be buttered with oleomargarine. Any caterer who sets out oleomargarine without such notification is subject to fine or imprisonment.

Colorado is also well protected. A fine or imprisonment is the penalty for selling adulterated milk or that from which the cream has been taken or from which the strippings have been withheld. Dealers may, however, sell skimmed milk if they inform their customers of the fact that it has been skimmed. Protection against oleomargarine is sought to be secured by imposing a license of \$1,000 on any one proposing to manufacture it, and one of \$500 on the seller. A penalty of from \$50 to \$500 is attached to the manufacture or selling of oleomargarine as butter.

Indiana has had long standing in its Revised Statutes a law against selling impure milk or milk from cows to which anything but wholesome and natural food is given. The old law also prohibits the use of deleterious substances for coloring butter and cheese, the penalties ranging from \$50 to \$500. In 1883 the subject of oleomargarine was taken up by the Legislature, and a law was passed requiring oleomargarine, in whatever shape it is offered for sale, to be branded as oleomargarine, and fines from \$10 to \$50 are imposed for failure to comply with the law.

Iowa imposes heavy penalties for adulterating milk, requires oleomargarine to be branded or stamped with its proper name, and prohibits the offering for sale of skimmed-milk, cheese or any cheese containing an admixture of oleomargarine or other substance, unless the adulterated product is plainly stamped with words setting forth just what it is.

Maine prohibits the manufacture and sale of oleomargarine, and imposes a fine of \$100 for the first offense and \$200 for each subsequent offense.

Massachusetts seems not to have awakened to the subject of imitation butter, but it has provisions for heavy fines for selling adulterated milk.

Michigan has about the same prohibitory law that obtains in Maine. An act of 1885 forbids oleomargarine altogether, under a penalty of from \$200 to \$500, with imprisonment not to exceed one year.

In Minnesota a penalty of from \$2 to \$200 is imposed for selling impure milk, while oleomargarine is altogether prohibited, the penalty of violating the law being from \$100 to \$500. The prohibitory law in Minnesota was also passed in 1885. The Maryland law is substantially the same as the Iowa law, requiring any imitation of butter to be branded with its proper name. The penalties in Maryland are somewhat heavier than they are in Iowa.

Missouri has taken the same extreme measure that prevails in Maine, Michigan, and Minnesota, prohibiting the manufacture and sale of imitation butter, but it emphasizes its objection to the substance by imposing a fine of \$1,000 and imprisonment for violating the law.

In Connecticut and Delaware the law is substantially the same. It aims to put imitation butter on its merits, and that is all that is demanded by dealers in legitimate dairy products. In Connecticut, however, the dealer is required to post a notice in his place of business announcing that he sells oleomargarine. In Delaware any substance offered for sale as butter that it is not real butter must be marked artificial butter. The fine for violation of the law in Connecticut is only \$7 or imprisonment for from ten to thirty days, but in Delaware the fine is \$50, with imprisonment till the same is paid.

In Illinois there is a general law relative to the adulteration of food or drink, which contains a provision that where oleomargarine is mixed with pure butter the seller is required to inform the buyer of the fact, and he must also inform him in what proportion the two substances are mixed. Offenses against the law increase for repetitions till a fine of \$2,000 is imposed for the third repetition. This law was passed in 1881. Another act was passed in 1883 requiring operators in butter and cheese on the co-operative factory plan to give bonds in the sum of \$6,000 that accurate reports will be made the first of each month, a copy of each to be filed with the clerk of the town in which the factory is situated. According to the best information to be obtained this law is practically a dead letter, for Chicago turns out a great proportion of the oleomargarine products that flood the country. There is a movement among merchants and dairymen to make this subject a political issue, and the next election may greatly depend upon the attitude of legislative candidates on the bogus butter question.

Nebraska contents herself for the present with guarding against the use of impure milk. In New Hampshire an attempt has been made to throw the responsibility for using oleomargarine on the consumer. The law requires it to be colored pink, and then it leaves everybody at liberty to buy the substance or leave it alone. In case of prosecution for selling imitation butter of the same color as natural butter, or under any other color than pink, an analysis of the substance is admissible in court as evidence. Ohio, by a law of last year, prohibits the manufacture and sale of oleomargarine as butter, but permits it to be dealt in as beef suet. Oregon has a law similar to a bill that was at one time before the Legislature of this State. It requires the public to be notified at every point of contact with oleomargarine that the substance is oleomargarine. It must in the first place be branded for market, then a notice must be posted up by hotel, restaurant, and boarding-house keepers that the substance is used by them instead of good butter, and lastly, the bill of fare, if a bill of fare is used, must state that the lubricator on the table is oleomargarine, if such be the fact.

In 1883 Pennsylvania started out to protect its citizens against oleomargarine, its Legislature enacting a law requiring the imitation article to be branded for what it was. This precaution proving unavailing, in 1885 a prohibitory act was passed. This law has recently been sustained by the Supreme Court of the State in the case of the People against Wallace.

In Rhode Island stamping with the proper name is required, and each seller of oleomargarine is required to deliver to the purchaser a label setting forth the true nature of the substance he has bought. In Tennessee the only requirement is that imitation butter shall be made and sold for what it is. The Territories of Arizona and Dakota have similar laws on this subject, traffic in the substance being allowed only on condition that it is properly labeled. The Arizona law requires the dealer to post up a notice that he has notice that he has oleomargarine for sale, and he must, as in Rhode Island, deliver to the purchaser an oleomargarine label with the package, when that article is bought in preference to genuine butter. The laws of New Jersey are like the present New York State laws.

Florida has made it a misdemeanor for hotel and boarding-house keepers to offer their guests imitation butter, and affixes a penalty of \$100 for each offense against the law. There seems to be no provision in that State permitting the use of oleomargarine as such.

## THE DEMORALIZING EFFECT UPON TRADE.

"There is a phase of this traffic in counterfeit butter," said a leading merchant, "that has scarcely been touched upon, so far as I have seen, in any of the exposures that have been recently made, and that is, its demoralizing effect upon trade. There can be no doubt that the law prohibits the sale of these counterfeits as genuine butter, and yet we hear every day of the arrest of grocers or their employees for selling them. Grant, if you please, that the constitutionality of the law is questioned, is it not on the statute books, and should it not be obeyed until the question is definitely decided? If a law is bad and iniquitous in its workings, the surest way to secure its repeal is to enforce it. But these dealers, who sell this product, knowing it to be counterfeit, for real butter, are guilty of a crime, and the manufacturers who furnish them with the stuff, well knowing that it cannot be sold for what it is, are morally responsible for their violation of the law. In many of these cases the proprietor of the stores escapes punishment because he was not present when the sale was made. Is not the selling of the goods in his store presumptive evidence that he instructed his clerk to sell them? What can you expect of young business men who are taught at the very outset of their career that deceit and fraud are a part of their duty to their employers? Can you look to them in their future lives to be honest and honorable?"

The *Western Plowman*, a conservative agricultural journal, says:

"The failure to stop the sale of oleomargarine does not proceed from any fault in the laws, but from the indifference or sanction of the people. The only executive of municipal laws under our form of government is public opinion. If the people sanction a law and are thor-

oughly convinced of the need of it, they will enforce it; otherwise it will be dead upon the statute book. We see this illustrated almost every day. Where public opinion is strongly in favor of a strong prohibition law, it is enforced; where public opinion is against it, it is not enforced. So with other laws. The people are the government, and have a more direct power in enforcing than in making laws. If public opinion were strongly in favor of the oleomargarine laws, those laws would be enforced. But the farmers, to begin with, exhibit no interest in the matter. They are sure of the butter they eat, for they make it themselves; and they fail to see that oleomargarine diminishes the amount realized for their surplus butter. The dairymen are too weak in numbers to enforce the law themselves; they must have the support of farmers, and this they have not. The wise course to pursue is not to clamor for more stringent laws, but to awaken the farmers to the fact that the sale of oleomargarine is inimical to their interests, as well as to the interests of the dairymen. And if the city consumers can be made so thoroughly disgusted with oleomargarine as to join the farmers and dairymen the present oleomargarine laws will be found sufficient."

### THURBER, WHYLAND & CO. ON BOGUS BUTTER.

In an interview in June last Mr. James H. Seymour, ex-president of the Butter, Cheese, and Egg Exchange, and one of the leading men in the trade, made public the following letter from Mr. F. B. Thurber, of Thurber, Whyland & Co., which sufficiently indicates the attitude of that great house as regards the illicit traffic in counterfeit butter. It should be mentioned here that Mr. Thurber has long been noted as a determined enemy to anything like deception in trade. The following is his letter:

NEW YORK, June 18, 1885.

*James H. Seymour, Esq.*—DEAR SIR: Referring to our recent conversation, I would say that I have always been opposed to the fraudulent sale of oleomargarine, and have contributed perhaps as much as any one person to compel its honest sale. There has been a great deal of misrepresentation of my position regarding this subject. It has been represented that I was largely interested in oleomargarine patents, and in the manufacture and fraudulent sale of the article, when the fact is I have never had any interest in either. My brother at one time did have an interest in a small oleomargarine factory, and owing to his influence our firm at one time acted as selling agents for the Commercial Company, which was then the largest factory; but we always sold it as oleomargarine, and never in any case as butter. This agency, however, ceased nearly three years ago, and shortly after my brother's retirement from the head of our firm we stopped selling oleomargarine. And now, notwithstanding that the law prohibiting its manufacture and sale has been declared unconstitutional, I wish to say that my firm will never sell it again, unless it should become such an article of commerce, commonly sold on its merits, that we would be compelled to keep it. I do not think it wrong to sell pure oleomargarine for what it is, for I have always taken the ground that I could not see why an article that was as much a farm product as either beef or butter should not be sold for what it is, providing it is wholesome. And of the thousands of pounds consumed I have never heard of any ill effects resulting from its use. But our other business in magnitude is as a thousand to one to any interest we ever had in oleomargarine, and I do not think it is our duty to combat the public prejudice which has been justly evoked by unscrupulous dealers selling it as butter. I have worked long and earnestly to improve the quality and enforce the honest sale of food products. I believe that all articles should be sold for precisely what they are, and I am heartily in accord with you in your opposition to the fraudulent sale of oleomargarine and butterine, which are sold, not on their merits as substitutes for butter, but as butter itself.

Yours, very truly,

(Signed)

F. B. THURBER.

## CONVICTIONS IN NEW YORK AND BROOKLYN.

*N. Y. Star, January 27, 1886.*

For a long time past the dealers engaged in the illegal sale of spurious butter and the capitalists interested in its manufacture have found fault with State Dairy Commissioner Brown and his able and energetic assistant in this city and Kings county, Mr. Van Valkenburgh, for not enforcing the provisions of the law of 1885 against manufacturers as well as retailers. The fact that but few of the former were brought to trial was used as a conclusive argument against the constitutionality of the law, so far as the manufacturing of the article was concerned, and was held to be presumptive proof that the Dairy Commissioner considered the act too weak to bear enforcement. Those who deceived themselves with these sophistical arguments were abundantly undeceived yesterday when the case of *The People against Lipman Arensberg* was called for trial before Judge Moore in the Brooklyn Court of Sessions. Arensberg is a well-known manufacturer of oleomargarine, and has an extensive factory on Furman Street. He was represented in court by Messrs. Wheeler H. Peckham and Frederick Coudert, and the former distinguished himself in cross-examining the expert chemists who were called as witnesses on the part of the prosecution.

State Expert Thomas C. DuBois testified that on July 16, 1885, he visited Arensberg's oleomargarine factory, No. 61 Furman Street, and purchased three tubs of oleomargarine. He asked specifically for oleomargarine and not for butter. The substance closely resembled natural butter. The remainder of his testimony related, as is usual in these cases, to what he had done with the goods purchased, and then Dr. Charles L. Stillwell, one of the chemists of the New York Produce Exchange, was placed upon the stand. He testified to the receipt of the sample, and said that upon analysis he found it to be oleomargarine. In the cross-examination of this witness, which was conducted by Mr. Wheeler H. Peckham, the distinction between oleomargarine and natural butter was very clearly described, and though questions cleverly designed to confuse him were rapidly poured forth by Mr. Peckham, the chemist never wavered, but seemed rather more positive than in his direct examination. He, too, described the sample as being colored in imitation and semblance of butter.

Dr. Thomas Gladding, Dr. Stillwell's partner, and also chemist for the Produce Exchange, passed through the ordeal of another searching cross-examination with equal success, and then the defense offered to put Professor Morton, of Stevens College, Hoboken, on the stand, announcing their intention to prove by his testimony that oleomargarine contained precisely the same chemical constituents as natural butter. The introduction of this testimony was objected to by the prosecution, and Judge Moore announced that he should rule out any evidence on this point unless the defense were prepared to prove that the substance sold was made from pure unadulterated milk, or cream from the same. To this Mr. Coudert replied that the defense made no such claim, and the objection was sustained.

The defense next offered to prove that the goods sold were wholesome, and Judge Moore again ruled that such evidence was inadmissible. Their third proposition was to prove that butter could be made from substances not derived from the milk of the cow, and this shared the fate of its predecessor, Judge Moore holding strictly in his ruling to the opinion of the Court of Appeals in the *Cipperly* case, in which it was held that the courts have nothing to do with the question of the wisdom or the natural justice of any particular law, and that its power to fix a standard for food products for the protection of the public health could not be questioned. The defense took exceptions to the exclusion of this evidence, and there rested. Then Judge Moore fined the defendant \$125 or 125 days' imprisonment, suspending the execution of the judgment pending the decision of the Court of Appeals, and Arensberg and his counsel retired.

"This case is important," said a leading butter merchant, "as involving the disputed point as to whether the Legislature has the constitutional right to prohibit the manufacture of any substance in semblance or imitation of butter. The oleomargarine manufacturers have long

boasted that sections 7 and 8 of the law, which cover this subject, would be declared unconstitutional; but Justice Learned's opinion in the Cipperly case, indorsed as it was by the Court of Appeals, will be likely to open their eyes to the fact that their confidence is misplaced. I hope that the Dairy Commissioner will now proceed actively against all classes of violators of the law, irrespective of their wealth or their business standing, and that the minor courts will support him. I am convinced that this conviction will have a more decided and widespread effect than any of those that have preceded it."

Out of eight cases tried in the Court of Special Sessions, New York, January 20, 1886, there were five convictions, two acquittals, and one postponement. This was an encouraging result as compared with former experiences. In nearly all these cases the violators of the law were defended by counsel employed by an association formed especially to protect grocers accused of this crime. Comment is unnecessary. Without going into the details of the trials of these cases, which would not be interesting to the general reader, it may be said that everything that ingenuity could devise was done by counsel to save these men from the punishment they so richly deserved.

## THE WORK OF THE DAIRY DEPARTMENT.

"The oleomargarine manufacturers, who do not relish the work done by this department," said Assistant Dairy Commissioner Van Valkenburgh yesterday, "assert that the experts we employ are spies, and insinuate that the work we do is not worth the money we get for it, To disprove this I will give you a résumé of the work done by one of our experts in the year that has just closed, and when you hear it, and find that his salary is \$80 a month, I think you will frankly acknowledge that his office is no sinecure. You should remember, too, that to be a butter expert requires years of training and experience. This man worked 277 days out of the 365, and in that time bought 1,387 samples in different parts of this city and Brooklyn. Of these he delivered thirty-five, supposed to be spurious, to a chemist for analysis. He appeared in court during the year 179 times, his attendance taking in nearly all the police courts from the Tombs to Harlem and those in Brooklyn, and practically devoted 121 days of the year to prosecuting the frauds he had helped to detect. His purchases of samples were made in the evenings for the reason that retailers would have suspected him had he visited the stores in daylight. Thus you see, what with the purchasing of samples, the attendance in court, and the working up of evidence for prosecutions, his time was well occupied. This expert caused 26 arrests, and paid 1,720 visits to 518 butter and grocery stores. This is a fair sample of the work done by the whole force. My own opinion is that the department should be strengthened so that the whole State could be efficiently covered. As it is, only the salient points, such as New York, Brooklyn, and Buffalo, are provided with inspectors, and in many parts of the State violators of the law can pursue their nefarious traffic without much fear of official interference. Of the hundreds of cases that have come under my personal observation, at least 98 per cent. have been sales of these unwholesome compounds for and as butter. And yet, in a majority of them, the defendants declare under oath, either that they sold the stuff without knowing that it was oleomargarine, or that they told the purchaser what it was. Many of our inspectors reported that on their first visit to a store they failed to obtain the imitation butter, but that on the second or third they seldom failed. We can do nothing with the manufacturers, for while they are morally responsible for the sale of the stuff they evade legal responsibility for selling it for what it is; and if we ever proceed against them, it must be under that clause of the law which forbids the coloring of their food product to simulate dairy butter. We must confine ourselves, therefore, to the retailers."

Since the above interview was printed a manufacturer in Brooklyn has been convicted, the rulings of the Court being based on the decision in the Apperby case (which is duly detailed in the chapter on decisions), and now there is every probability that manufacturers will be vigorously prosecuted, so far as New York is concerned.

## IMPORTANT DECISIONS.

The following are the most important decisions thus far rendered as to the constitutionality of prohibitive laws. The decision in the first case mentioned—that of *The People* against Morris Marx, was seized upon by the dishonest dealers as a pretext for continuing their swindle, but subsequent action by the Courts convinced them that they had acted precipitately and a number of convictions under other sections of the act persuaded them that the law was still in force.

## THE MARX CASE.

## COURT OF APPEALS.

THE PEOPLE,	}
<i>Respondent,</i>	
agst.	
MORRIS MARX,	
<i>Appellant.</i>	

RAPALLO, J.—The defendant was convicted in the Court of General Sessions, of the City and County of New York, of a violation of the Sixth Section of an act entitled, “An Act to prevent deception in sales of dairy products” (chap. 202 of the Laws of 1884).

On appeal to the General Term of the Supreme Court in the First Department the conviction was affirmed, and the defendant now appeals to this court from the judgment of affirmation.

The main ground of the appeal is that the section in question is unconstitutional and void.

The section provides as follows: “Sec. 6. No person shall manufacture out of any oleaginous substances, or any compound of the same, other than that produced from unadulterated milk, or of cream from the same, any article designed to take the place of butter or cheese produced from pure or unadulterated milk or cream of the same, or shall sell or offer to sell he same as an article of food. This provision shall not apply to pure skim-milk cheese, produced from pure skim milk.”

The rest of the section subjects to heavy punishments by fine and imprisonment “whoever violates the provisions of this section.”

The indictment charged the defendant with having, on the 31st of October, 1884, at the City of New York, sold one pound of a certain article manufactured out of divers oleaginous substances and compounds thereof, other than those produced from unadulterated milk, to one J. M., as an article of food, the article so sold being designed to take the place of butter produced from pure unadulterated milk or cream. It is not charged that the article so sold was represented to be butter, or was sold as such, or that there was any intent to deceive or defraud, or that the article was in any respect unwholesome or deleterious, but simply that it was an article designed to take the place of butter made from pure milk or cream.

On the trial, the prosecution proved the sale by the defendant of the article known as oleomargarine or oleomargarine butter. That it was sold at about half the price of ordinary dairy butter. The purchaser testified that the sale was made at a kind of factory, having on the outside a large sign, “oleomargarine.” That he knew he could not get butter there, but knew that oleomargarine was sold there, and the District-Attorney stated that it would not be claimed that there was any fraudulent intent on the part of the defendant, but that the whole claim on the part of the prosecution was that the sale of oleomargarine, as a substitute for dairy butter, was prohibited by the statute.

On the part of the defendant, it was proved by distinguished chemists that oleomargarine was composed of the same elements as dairy butter. That the only difference between them was that it contained a smaller proportion of a fatty substance known as butyrene. That this butyrene exists in dairy butter only in a small proportion—from three to six per cent. That it exists in no other substance than butter made from milk, and is introduced into oleomargarine butter by adding to the oleomargarine stock some milk, cream, or butter, and churning, and when this is done it has all the elements of natural butter, but there must always be a smaller percentage of butyrene in the manufactured product than in butter made from milk. The only effect of the butyrene is to give flavor to the butter, and has nothing to do with the wholesomeness. That the oleaginous substances in the oleomargarine are substantially identical with those produced from milk or cream. Professor Chandler testified that the only difference between the two articles was that dairy butter had more butyrene. That oleomargarine contained not over one per cent. of that substance, while dairy butter might contain four or five per cent.; and that if four or five per cent. of butyrene were added to the oleomargarine, there would be no difference; it would be butter; irrespective of the sources, they would be the same substances. According to the testimony of Professor Morton, whose statement was not controverted or questioned, oleomargarine, so far from being an article devised for purposes of deception in trade, was devised in 1872 or 1873 by an eminent French scientist who had been employed by the French government to devise a substitute for butter.

Further testimony to the character of the article being offered, the District Attorney announced that he did not propose to controvert that already given. Testimony having been given to the effect that oleomargarine butter was precisely as wholesome as dairy butter, it was, on motion of the District Attorney, stricken out, and the defendant's counsel excepted. The broad ground was taken at the trial, and boldly maintained on the argument of this appeal, that the manufacture or sale of any oleaginous compound, however pure and wholesome, as an

article of food, if it is designed to take the place of dairy butter, is by this act made a crime. The result of the argument is that if, in the progress of science, a process is discovered preparing of beef-tallow, lard, or any other oleaginous substance, and communicating to it a palatable flavor so as to render it serviceable as a substitute for dairy butter, and equally nutritious and valuable, and the article can be produced at a comparatively small cost, which will place it within the reach of those who cannot afford to buy dairy butter, the ban of this statute is upon it. Whoever engages in the business of manufacturing or selling the prohibited product is guilty of a crime; the industry must be suppressed; those who could make a livelihood by it are deprived of that privilege. The capital invested in the business must be sacrificed, and such of the people of the State as cannot afford to buy dairy butter must eat their bread unbuttered.

The references which have been here made to the testimony on the trial are not with the view of instituting any comparison between the relative merits of oleomargarine and dairy butter, but rather as illustrative of the character and effect of the statute whose validity is in question. The indictment upon which the defendant was convicted does not mention oleomargarine, neither does the section (Sec. 6) of the statute, although the article is mentioned in other statutes which will be referred to. All the witnesses who have testified as to the qualities of oleomargarine may be in error, still that would not change a particle the nature of the question or the principles by which the validity of the act is to be tested.

Section 6 is broad enough in its terms to embrace not only oleomargarine but any other compound, however wholesome, valuable, or cheap, which has been or may be discovered or devised for the purpose of being used as a substitute for butter. Every such product is rigidly excluded from manufacture or sale in this State.

One of the learned judges who delivered opinions at the General Term endeavored to sustain the act on the ground that it was intended to prohibit the sale of any artificial compound as butter or cheese made from unadulterated milk or cream; that it was that design to deceive which the law rendered criminal. If that were a correct interpretation of the act, we should concur with the learned judge in his conclusion as to its validity, but we could not concur in his further view that such an offense was charged in the indictment or proved upon the trial. The express concessions of the prosecuting officer are to the contrary. We do not think that section six is capable of the construction claimed. The prohibition is not of the manufacture or sale of an article designed as an *imitation* of dairy butter or cheese, or intended to be passed off as such, but of an article designed to *take the place* of dairy butter or cheese. The artificial product might be green, red or white, instead of yellow, and totally dissimilar in appearance to ordinary dairy butter, yet it might be designed as a substitute for butter, and if so would fall within the prohibition of the statute. *Simulation* of butter is not the act prohibited. There are other statutory provisions fully covering that subject.

Chapter 215 of the Laws of 1882, entitled "An act to regulate the manufacture and sale of oleomargarine, or any form of imitation butter and lard, or any form of imitation cheese, for the prevention of fraud and the better protection of the public health," by its first section prohibits the introduction of any substance into imitation butter or cheese for the purpose of imparting thereto a color resembling that of yellow butter or cheese. The second section prohibits the sale of oleomargarine or imitation butter thus colored, and the third section prohibits the sale of any article in semblance of natural cheese not the legitimate product of the dairy unless plainly marked "imitation cheese."

Chapter 238 of the Laws of 1882 is entitled "An Act for the protection of dairymen, and to prevent deception in the sales of butter and cheese," and provides (Sec. 1) that every person who shall manufacture for sale, or offer for sale, or export any article in semblance of butter or cheese, not the legitimate product of the dairy, must distinctly and durably stamp on the side of every cheese, or on the top and side of every tub, firkin, or package, the words "oleomargarine butter;" or if containing cheese, "imitation cheese," and Chapter 246 of the Laws of 1882, entitled "An act to prevent fraud in the sale of oleomargarine, butterine, suine, or other substances not butter," makes it a misdemeanor to sell at wholesale or retail any of the above articles, representing them to be butter.

These enactments seem to cover the entire subject of fraudulent imitations of butter, and of sales of other compounds as dairy products, and they are not repealed by the act of 1884, although that act contains an express repeal of nine other statutes, eight of which are directed against impure or adulterated dairy products, and one against the use of certain coloring matter in oleomargarine. The provisions of this last act are covered by one of the acts of 1882, above cited, and the provisions of the repealed act in relation to dairy products are covered by substituted provisions in the act of 1884, but the statutes directed against fraudulent simulations of butter, and the sale of any such simulations as dairy butter, are left to stand. Further statutes to the same effect were enacted in 1885. Consequently, if the provisions of section six should be held invalid, there would still be ample protection in the statutes against fraudulent imitations of dairy butter, or sales of such imitations as genuine.

It appears to us quite clear that the object and effect of the enactment under consideration was not to supplement the existing provisions against fraud and deception by means of imitations of dairy butter, but to take a further and bolder step, and absolutely prohibiting the manufacture or sale of any article which could be used as a substitute for it, however openly and fairly the character of the substitute might be avowed and published, to drive the substituted article from the market, and protect those engaged in the manufacture of dairy products against the competition of cheaper substances, capable of being applied to the same uses as articles of food.

The learned counsel for the respondent frankly meets this view, and claims in his points, as he did orally upon the argument, that even if it were certain that the sole object of the enactment was to protect the dairy industry in this State against the substitution of a cheaper article made from cheaper material, this would not be beyond the power of the Legislature.

This, we think, is the real question presented in the case. Conceding that the only limits upon the legislative power of the State are those imposed by the State constitution and that of the United States, we are called upon to determine whether or not those limits are transgressed by an enactment of this description. These limitations upon legislative power are necessarily very general in their terms, but are at the same time very comprehensive.

The Constitution of the State provides (Art. 1, Sec. 1) that no member of this State shall be disfranchised, or deprived of any of the rights and privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. Section 6 of Article 1 provides that no person shall be deprived of life, liberty, or property without due process of law, and the Fourteenth Amendment to the Constitution of the United States provides that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." These constitutional safeguards have been so thoroughly discussed in recent cases that it would be superfluous to do more than refer to the conclusions which have been reached, bearing upon the question now under consideration. Among these no proposition is now more firmly settled than that it is one of the fundamental rights and privileges of every American citizen to adopt and follow such lawful industrial pursuit, not injurious to the community, as he may see fit (*Live Stock Association vs. The Crescent City, etc.*, 1 Abb., U. S. R., 808; 16 Wall., 156; *Corfield vs. Coryell*, 4 Wash. C. C. R., 380; *Matter of Jacobs*, 98 N. Y., 98). The term "liberty," as protected by the Constitution, is not cramped into a mere physical restraint of the person of the citizen, as by incarceration, but is deemed to embrace the right of man to be free in the enjoyment of the faculties with which he has been endowed by his Creator, subject only to such restraints as are necessary for the common welfare. In the language of Andrews, J., in *Bertholf vs. O'Reilly* (74 N. Y., 515), the right to liberty embraces the right of man "to exercise his faculties and to follow a lawful avocation for the support of life;" and as expressed by Earl, J., in *In re Jacobs*. "One may be deprived of his liberty and his constitutional right thereto violated, without the actual restraint of his person. Liberty in its broad sense, as understood in this country, means the right not only of freedom from servitude, imprisonment, or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling and to pursue any lawful trade or avocation."

Who will have the temerity to say that these constitutional principles are not violated by an enactment which absolutely prohibits an important branch of industry for the sole reason that it competes with another, and may reduce the price of an article of food for the human race.

"Measures of this kind are dangerous even to their promoters. If the argument of the respondents in support of the absolute power of the Legislature to prohibit one branch of industry for the purpose of protecting another with which it competes can be sustained, why could not the oleomargarine manufacturers, should they obtain sufficient power to influence or control the legislative councils, prohibit the manufacture or sale of dairy products? Would arguments then be found wanting to demonstrate the invalidity under the Constitution of such an act? The principle is the same in both cases. The number engaged upon each side of the controversy cannot influence the question here. Equal rights to all are what are intended to be secured by the establishment of constitutional limits to legislative power, and impartial tribunals to enforce them.

"Illustrations might be indefinitely multiplied of the evils which would result from legislation which should exclude one class of citizens from industries lawful in other respects, in order to protect another class against competition. We cannot doubt that such legislation is violative of the letter as well as of the spirit of the Constitutional provisions before referred to, nor that such is the character of the enactment under which the appellant was convicted.

"The judgment of the General Term of the Court of Sessions should be reversed. All concur."

(A copy.)

H. E. SICKELS, reported per C.

## THE CIPPERLY CASE.

*(N. Y. Star, January 24, 1886.)*

The news of the reversal by the Court of Appeals of the decision of the Supreme Court in the case of the People against Arthur Cipperly of Albany was received by the oleomargarine men with dismay and by the advocates of honest butter with unmitigated satisfaction. While the Cipperly case bears on the sale of adulterated milk, the decision is regarded as thoroughly sustaining the constitutionality of the law of 1885, under which the prosecutions of bogus butter dealers have been conducted. In handing down their decision the Court of Appeals used the following words:

"Upon the argument of this case, we were of the opinion that the respondent failed to show any ground upon which the judgment appealed from could be supported; but, in view of the importance of the question raised, and difference in the court below concerning it, took further time for its consideration. We still think the judgment wrong, and, for reasons sufficiently stated by Judge Learned, who dissented in the General Term of the Supreme Court, the judgment of that court should be reversed and the judgment of the Special Sessions affirmed."

All concurred except Justice Miller, who was absent. Justice Learned's dissenting opinion, upon which the decision of the court was based, is a voluminous document, and opens with the assertion that the principle of the case of Wyndham vs. People, as to the destruction of existing property, is not, in his opinion, applicable to the present case. It would be a greater stretch of that principle to say that the statute in question deprived persons who owned cows at the time of its passage of their property, because it interfered with or even deprived them of the use of the milk which the cows might yield. The opinion continues:

"But the defendant takes the broader ground that the Legislature cannot, under the Constitution, prohibit the sale of milk drawn from healthy cows which, in its natural state, falls below the standard fixed by the acts, unless such milk, or the article made from it, is in fact unwholesome or dangerous to public health. How is that question of fact to be determined? The Court cannot take judicial notice whether the milk below the standard is or is not wholesome or dangerous to public health. Is that to be a question for the jury? If so, the Court must charge a jury, in each case, that if they find milk below that standard to be unwholesome, then the statute is constitutional. If they find it to be unwholesome, then the statute is unconstitutional. Evidently a constitutional question cannot be settled, or rather unsettled, in this way. The constitutionality would vary with the varying judgment of juries.

"Either then the Legislature can, under the Constitution, forbid the sale of milk below a certain standard, whether such milk be in fact wholesome or not, or else they cannot do this, whether such milk be in fact wholesome or not. If they may fix a standard, they must judge whether or not milk below that standard is wholesome. The courts can not review that judgment. \* \* \* It cannot, then, be material to the present question whether milk below the standard fixed by the statute is or is not wholesome. The question must be whether the Legislature can establish a standard of purity. \* \* \* Now, it is very plain that courts have nothing to do with the question of the wisdom or even, according to our courts, with the natural justice of any particular law. Courts cannot say that the Legislature has the constitutional power to pass a judicious law to regulate the sale of articles of food, but have no constitutional power to pass an injudicious law on that subject. An examination of the present law plainly shows that it relates to and is appropriate to promote the public health. Whether its details are wise we do not know. But its object is evident and good. \* \* \* What determined the Legislature to fix this standard we do not know. But it may be supposed that different kinds of food produce different degrees of richness in milk. It may be known to the Legislature that this watery milk supplied as food to children, cheats them with the appearance of nourishment, and deprives them of that nutritious food which they need. It may be known to legislators, then, that milk below the standard which they fix by this law is unsuitable for food and should not be sold. At any rate, all this is a matter for the Legislature. \* \* \* The law is general in its scope; not limited to two cities. The only fault to be found is that it may be unwise, as the defendant claims, to make a certain standard the test, and to forbid the sale of milk below that test. Whether that is wise or not, it is not for us to say. It is a provision evidently intended for the public health. No other intention can be gathered from the law. Plainly no other existed, and in view of the difficulties which surround the attempt to secure wholesome milk to the people, it is by no means certain that the establishing of a definite standard is not a judicious provision."

With regard to the decision of the Court of Appeals in the Marx case, the oleomargarine test suit, the opinion says:

"In other words, the object of that law, like that of a protective tariff, was to protect the home industry of the farmer against the city industry of the manufacturer, and the Court held the law to be void, because it prohibits an important branch of industry for the sole reason

that it competes with another and may reduce the price of an article of food. Evidently the present law has no such characteristics. It is not intended to prohibit any branch of industry or to prevent competition. Its sole object is to regulate and control the quality of a certain article of food in the interest of the health of the people; and if the Legislature, knowing the difficulty of guarding against the watering or other adulterations of milk, deem it best to fix a standard of richness, I think this is within their power."

A leading lawyer, who has made a special study of oleomargarine legislation, said last evening: "There are three important points decided by this opinion of Judge Learned, indorsed by the Court of Appeals, that are worthy of consideration. These are: First—That the Legislature has the power to prevent the sale of unwholesome food and drink for human beings. Second—That the Legislature is the judge of what is unwholesome, and the courts can only declare a law relating to food and drink unconstitutional when the Legislature has exceeded its powers to such an extent that it appears on the face of the statute. No evidence can be given to prove that the forbidden articles are not unwholesome; and third—That those who deal in dairy products must see that they do not violate the law. They cannot prove for any purpose that they were ignorant of the fact that they were selling imitation goods. In the Cipperly case the evidence showed not only that the man did not know he was selling adulterated milk, but that the milk was sold just as it came from the cow. There could not be a stronger case on the want of knowledge than this. This opinion declares that want of knowledge of the law is no defense. Now, the query is a logical one: If the Legislature has the power to fix a standard for milk, why has it not a similar power with regard to butter?"

Philip Laracy, of No. 327 Tenth Avenue, and Henry Rothman, of No. 564 Eleventh Avenue, grocers, were arraigned yesterday before Justice Duffy at the Jefferson Market Police Court, for selling oleomargarine as butter. They were held in \$200 bail, the former electing to be tried in the Court of General Sessions and the latter in Special Sessions.

## AN IMPORTANT PENNSYLVANIA DECISION.

One of the most important decisions with regard to the constitutionality of legislative action for the protection of public health that has recently been made was that rendered by Judge J. W. Simonton, of the Supreme Court of Pennsylvania, in the case of the Commonwealth against W. L. Powell, a Harrisburg grocer. This tradesman, confident that the prohibitive act passed May 21, 1885, would be declared unconstitutional on appeal, deliberately sold butterine as an article of food. He was arrested and tried in the Court of Quarter Sessions in Dauphin County upon an indictment based upon Section 1 of the act, which reads:

"No person, firm, or corporate body shall manufacture out of any oleaginous substance, or any compound of the same other than that produced from pure, unadulterated milk or cream from the same, or any imitation or adulterated butter or cheese, nor sell or offer for sale, or have in his possession with intent to sell the same, as an article of food."

It was agreed for the purposes of the trial that the defendant sold to the prosecuting witness, in the city of Harrisburg, July 10, 1885, as an article of food, two original packages, containing an oleaginous substance and compound other than that produced from pure, unadulterated milk and cream from the same, and designed to take the place of butter, and that these packages were sold as butterine, and not as butter. It was further agreed that the defendant had 100 pounds of this substance in his possession, and intended to sell the same, and the identity of the packages produced in court was admitted by the defendant. With this agreement and admission the Commonwealth rested, and the defendant endeavored to introduce expert testimony as to the wholesomeness of the compound. To this objection was made, and it was excluded. The case was then submitted to the jury, a verdict of guilty rendered, and the defendant moved for a new trial and an arrest of judgment.

The points made by the defense were: First, that the act under which he was indicted was unconstitutional, per se; second, that the evidence offered and rejected was relevant to the question of its constitutionality, as applied to the special facts of this case.

After citing numerous precedents showing that in a suit to declare a law unconstitutional the burden of proof is on the defendant, and that the Legislature may exercise all powers that are properly legislative, Judge Simonton's opinion continues:

"We have carefully considered the suggestions and arguments offered by his (defendant's) able counsel, intended to show that the power to enact a statute such as the one in question, which, as they contend, deprives the defendant of his facilities and takes from him his means of livelihood, is excepted out of the general grant of the legislative power contained in the Constitution, by the express or implied limitations or prohibitions of the Bill of Rights of the body of the Constitution itself. But, assuming for the present that the statute is in its nature legislative, we are wholly unable to find any limitation or prohibition which can be successfully pleaded against its enactment or enforcement. For, while the Bill of Rights does declare that

'all men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying life and liberty, and of acquiring, possessing, and protecting property and reputation, and of pursuing their own happiness,' this has never been construed to be a declaration that these rights are absolute. \* \* \* Hence, if the act in question be legislative in its character, the limitations which it prescribes for the defendant in the acquisition, possession, and use of his property are clearly within the boundary lines drawn by the Constitution, if, in the judgment of the Legislature, these limitations are considered necessary and expedient for the welfare of the community. And if so, then, in so far as they do, if at all, interfere with the defendant's full enjoyment of his property, this interference results from the 'law of the land.'"

Speaking of the decision of the New York Court of Appeals in the Jacobs case, in which a statute prohibiting the making of cigars in tenement houses in certain cases was declared unconstitutional on the ground that it was not a health law, Judge Simonton says:

"And if we could be satisfied that the object and intent of the act in question here were what the Court of Appeals of New York declared the object and intent of the act before that court to be, we would not hesitate to pronounce it unconstitutional and void. But having in mind the axiom that all the presumptions are in favor of the good faith of a co-ordinate department of the government, and that to doubt is to be resolved in favor of the validity of its acts, how can we say that it is not the bona fide purpose of this act, as expressed in its title, to protect the public health, and to prevent the adulteration of dairy products and fraud in their sale? And the Legislature having, by passing the act, declared its judgment that the means used are necessary to attain these ends, we cannot review this judgment when exercised in good faith, for the conclusive reason that it is clearly within the jurisdiction of the Legislature to effect these purposes by appropriate means."

Here the opinion quotes numerous precedents bearing upon the point, deals with the offer of the defendant to prove by expert witnesses the cleanliness and wholesomeness of the product, and his assertion that for its manufacture large investments had been made, this evidence having been excluded, says: "But we are unable to see how the admission of this testimony could have legally changed the result. With respect to the first offer we are by no means prepared to say, even, that an offer to show that oleomargarine butter or butterine is made generally from pure animal fats by a pure and wholesome process, and is as wholesome and nutritious an article of food as genuine butter, would have been relevant. But this we are not now called upon to decide. The offer was made to show merely that the article admitted to have been sold in this case, was such. No one doubts that it might be made as stated in the offer. But it is no less certain that it may be made out of oleaginous substances that are neither pure nor wholesome. How, then, could evidence that the substance sold in any given case, and admitted to be that proscribed by the act, was pure and wholesome, tend to show that the statute which forbids all sales is unconstitutional? As well might a defendant who is on trial for selling spirituous liquors in a jurisdiction where all such sales were prohibited, while admitting that he had sold the prohibited article, offer to prove, by way of defense, that the particular glass of liquor sold was pure and wholesome. Witnesses could be called in almost every case who would be willing so to testify, but no court would admit such testimony for the purpose of showing that a prohibitive statute was unconstitutional. Indeed, the question of the constitutionality of a statute cannot be determined on the testimony of witnesses, for the very conclusive reason that it is a question of law and not of fact, and must be decided by the Court on quite other grounds than those of the opinions and beliefs of witnesses. We are satisfied that it was not an error to refuse the testimony recited in the first offer. We may here remark that this offer brings into view one of the reasons that impelled the Legislature to pass this act. It states that the amount of butterine in the manufactured article was increased by the introduction of milk and cream, and that the only effect of butterine is to give flavor to the butter. Manifestly the purpose was to give this article as nearly as possible the flavor and semblance of butter, so that it might be sold as such by the retailer without detection, and no doubt this is the 'fraud in the sale' which the act was designed to prevent."

In this case an appeal has been taken to the highest court of the State, and the prediction is hazarded that that court will follow the example of the Court of Appeals of this State in the Cipperry case, and base its decision upon Judge Simonton's learned opinion.

## EDITORIAL COMMENTS.

(*New York Star*, January 5, 1886.)

The campaign against the bogus butter manufacturers and venders is now pretty certain to be carried into the Legislatures of several States, if not into Congress itself. Our representatives at Washington cannot afford to overlook the great interest that is imperiled by this traffic—that of the dairymen and farmers of the entire country. In 1883 our exports of butter had diminished to 12,348,640 pounds, which was fully 5,000,000 pounds less than in the preced-

ing year. These figures represent a total aggregate loss of 16,786,680 pounds in five years. In 1879 we exported over 25,000,000 pounds and last year (1885) a little over 10,000,000 pounds. A moment's calculation will suffice to show that in another five years our creamery export trade will be literally wiped out by bogus butter. The phenomenal growth of the oleomargarine export trade is seen by a glance at the following figures:

	Pounds,		Pounds.
1880.....	20,000,000	1883.....	23,400,000
1881.....	26,300,000	1884.....	39,322,841
1882.....	22,000,000	1885.....	37,882,155

Here is an increase of 17,000,000 pounds of imitation butter sent to foreign markets, to offset a decrease in the same period of 16,786,680 pounds of genuine butter! It is not an easy task to show the loss to the foreign trade of the country by the substitution of oleo; but the most reliable estimates place it at \$6,000,000 per annum, taking 1885 as the basis, or a little over \$25,000,000 since 1879, inclusive. This, it should be remembered, is altogether apart from the home question, which deals with the loss to consumers in health and pocket and the flagrant violation of law by the wholesalers and retailers of bogus butter.

## COMMISSIONER COLMAN'S WORK.

*N. Y. Star, January 20, 1886.*

A few days ago we made reference to a most important work to which the administration is devoting a great deal of thought and effort. It is a work in which the whole people are concerned, for it touches their daily lives and relates to their closest interests. The adulteration of food in this country is attaining gigantic proportions. It is beginning to affect almost everything we eat and drink, to touch the sources of our vitality, to taint the blood of our children. It menaces that dearest possession of humanity, health, and spreads over the land the blight of its stealthy and terrible influence.

The Department of Agriculture has taken up the matter in earnest. We have already alluded to the enthusiasm with which Commissioner Colman is combating the abuse, and have given some hints as to the methods whereby he proposes to promote the end he has in view. He has enlisted in the good cause the official chemists of the different States, and those gentlemen are now engaged in the preparation of reports that will set forth not only all the various forms of food adulteration coming within their respective jurisdictions, but will, in addition, present suggestions as to the most practicable way of arresting the evil. Further than this, however, and possibly still more important, is the fact that Professor Wylie, the chief chemist of the department, who is now returning from a business mission in Europe, will bring with him full information as to the methods adopted in France, Germany, and other continental nations, for the suppression of food adulteration. Those nations, France especially, have had valuable experience in the direction mentioned, and, it is believed, have attained as nearly to perfect efficiency as could be expected. Professor Wylie's report will be a most important contribution to the work in which Commissioner Colman is engaged.

It is not possible to overrate the magnitude of this enterprise. The people at large, the consumers, are being made the victims of a colossal, organized fraud. Those engaged in the legitimate business of supply are being oppressed and injured by dishonest competitors. The situation is deplorable from every point of view, and it should be a matter of pride to all Democrats that the administration is found to be so prompt and earnest in the work of alleviating its asperities. We are at the mercy of adulterated milk, butter, cheese, sugar, molasses, and a hundred other articles of daily consumption—not excepting infants' food—and from this abhorrent predicament the administration proposes to extricate us. We believe that Commissioner Colman will be able to formulate a bill effectually covering the whole ground and pointing out a way by which food adulteration may be robbed of its most injurious features, if not wholly and permanently suppressed. We do not doubt that Congress will, in the interests of the public welfare, enact the law almost without a dissenting voice.

## THE BOGUS BUTTER BUSINESS.

WHO FAVOR AND WHO OPPOSE IT—A STRONG PRESENTATION OF THE CASE.

*N. Y. Times, January, 19, 1886.*

If the people of this State should be required to vote upon the question whether or not merchants should be allowed to sell bogus butter for real butter, how many would be willing to be counted on the affirmative side? If they should be required to express by vote their opinion as to the propriety of forbidding by law the manufacture of bogus butter, how many would stand up and be counted on the side of the manufacturers? We cannot assume that any

one in this State would deliberately and openly favor by vote such deception in trade as is used by those who palm off upon consumers bogus butter for real butter. Upon the second question, as to preventing manufacture or sale, prohibition would be favored by every farmer in the State and by every consumer not personally interested in the bogus butter business. That is to say, there would be arrayed in opposition to 5,000,000 of people a few scores of persons who are engaged in making bogus butter or in selling it, or who depend in some way, directly or indirectly, on this "industry" for support. The people do not want the stuff, and they will not use it if they can help it. Nevertheless, it is made in this city and in other parts of the State in enormous quantities, and thousands of packages imported from other States are sold here every month.

To the consumer it comes as real butter. The manufacturer and the wholesale dealer sell it for what it is, of course, and the retail dealer may occasionally sell it for what it is to the proprietor of a boarding house or a restaurant, but to those who eat it the stuff is presented as real butter, for the excellent reason that if it were presented as anything else they would not use it. Yet there are newspapers that talk about "denying the people the right to use a food product of their own choice!" The annual report of Dairy Commissioner Brown should be read with satisfaction by the people of New York, because it shows that he has made commendable progress in the work of enforcing the laws against those who swindle consumers by selling them bogus butter for the real product of the dairy. After the Court of Appeals had declared the law prohibiting manufacture and sale to be unconstitutional dealers boldly defied all other laws relating to this subject. The commissioner has reminded them of the existence of these laws, and the cases of nearly 200 persons who have been prosecuted are pending in the courts. Fines to the amount of nearly \$2,300 have been collected. We hope that in the current year the commissioner will be able, by vigorous prosecution, to put an end to the sale of bogus butter by deception and fraud.

Those who have been retained to defend the manufacturers of the several compounds that masquerade in the form and semblance of butter declare that the stuff is wholesome. They do not go so far as to defend the deception, without which the product of the factories could not be sold, but their plea is that the stuff will harm no one who is led by deception to eat it. The commissioner submits a special report, made by Dr. Clark, who has been at work for nearly a year as an expert in this field. His conclusion is that for several reasons bogus butter is unwholesome and dangerous to health. Manufacturers who are eager to make a cheap product use unwholesome fats and ingredients that cannot fail to injure the consumer. Dr. Clark's list of acids, oils, and other substances used by the manufacturers can be greatly prolonged by adding the names of substances specified in the patents issued for the various processes. It is possible that in some place there is made bogus butter that will not harm the person who eats it. But in most cases the manufacturer's aim is to produce an article that will look well and sell for a price that will hold the market for him against competitors. The fraudulent compounds are manufactured under no restrictions except those imposed by the maker's conscience and the demands of the trade. Under these conditions what must be the nature of the product?

There is no room for argument upon the proposition that bogus butter should be sold for just what it is and not for a dairy product. A rigid enforcement of the laws forbidding any other disposition of the stuff is demanded in the interests of public health, our export trade in dairy products and our dairy industry, and for the support of honesty in trade. Those who try to thwart the execution of these laws are the enemies of the people.

## AN ABSURD STATEMENT.

*N. Y. Times, Jan. 28, 1886.*

A few days ago the Court of Appeals reversed the decision of the General Term of the Supreme Court in the case of the People against Arthur Cipperly, thereby declaring the law forbidding the sale of adulterated or unwholesome milk to be constitutional. The judgment of the court below was overturned, the Court of Appeals said, "for reasons sufficiently stated by Judge Learned," who had submitted a dissenting opinion. In this opinion, thus indorsed by the Court of Appeals, Judge Learned was led to speak of the upper court in the Marx case, which declared the law forbidding the manufacture or sale of imitation butter to be unconstitutional.

"The object of that law, like that of a protective tariff," wrote Judge Learned, "was to protect the home industry of the farmer against the city industry of the manufacturer, and the court held the law to be void because it prohibits an important branch of industry for the sole reason that it competes with another, and may reduce 'the price of an article of food.'" On the other hand, he declared that the milk law's "sole object" was to "regulate and control the quality of a certain article of food in the interest of the health of the people."

It is not true that the object of the prohibitory law against imitation butter was "to protect the home industry of the farmer against the city industry of the manufacturer," and a

thousand assertions by Judges of the Supreme Court, indorsed by the Court of Appeals, cannot make it true. The imitation butter law which the court has rejected was, like other laws on the same subject that are still in force, enacted for the protection of the consumer. Legislation against imitation butter has been demanded for the protection of the people. It is true that the dairy interests have suffered, and still suffer, by reason of the manufacture and sale of the imitation, and that the laws have been supported by the farmers, but primarily they were enacted for the benefit of the people who eat butter, to prevent them from being deceived and from being fed with an unwholesome product.

The farmers who make butter may reasonably help the consumer in his contest with the bogus butter men, for the quantity of butter exported has fallen from nearly 40,000,000 pounds in 1880 to only 21,683,000 pounds in 1885, while the quantity of imitation butter and oleo oil exported has risen to 37,882,000 pounds. The consumer in the city or in the country, has a right to demand that he shall not be deceived by those who sell him food, and that stuff that will undermine his health shall not be palmed off upon him as a genuine product of the dairy. The trade in bogus butter thrives on deceit and lives by deceit alone, and no amount of talk from judges or paid attorneys about competition and the trade's "importance as an industry" can convince intelligent people that it is opposed by no one except the makers of real butter.

## A MERCHANT ON BOGUS BUTTER.

*N. Y. Star, Jan. 26, 1886.*

From mercantile circles on every side, no less than from private consumers, *The Star* continues to receive emphatic indorsements of the crusade it has opened up in the interest of pure and healthful food products and against adulteration. One of the best-known commission merchants in New York, who has been for many years prominently identified with the butter trade, writes us as follows:

NEW YORK, Jan. 20.

TO THE EDITOR OF THE STAR—SIR: Your editorial in this morning's issue on Commissioner Colman's work is an excellent one. Too much stress cannot be placed upon your own words. They are as follows: "The people at large—the consumers—are being made victims of a colossal organized fraud. Those engaged in the legitimate business of supply are being oppressed and injured by dishonest competitors. The situation is deplorable from every point of view."

The Democratic party could do nothing better for the country than to wipe out this gigantic fraud. Pure food products can be produced far in excess of home consumption. There is no excuse in the world for feeding our people so much contemptible trash. It is destroying the confidence of foreign nations in the purity of our food products and our integrity as merchants.

I hope *The Star* will continue to agitate the question, that our law-makers in this country may see the necessity of stringent means regulating the sale of adulterated products.

Very respectfully,

JAMES H. SEYMOUR.

Mr. Seymour's is not an isolated case of opposition to the vicious and unwholesome traffic in counterfeit butter. Mr. F. B. Thurber, the largest wholesale produce merchant in the East, several weeks ago wrote to *The Star* that his firm had refused to sell oleomargarine, or butter substitutes, being unwilling to share in the odium attached to the traffic. This was followed by the combined action of the retail Grocers' Union, which decided to sell no more counterfeit butter, and even urged the Legislature to pass a law compelling dealers in the stuff to color it blue or pink. Since that time the war has extended into a dozen States. Reputable dealers everywhere are falling into line; they cannot afford to withstand the overwhelming tide of public condemnation that has set in against adulterated butter in every shape. People have had their eyes opened to the real character of the deceptive compounds they have been consuming for several years past under the pleasant delusion that it was the genuine creamery product they saw shining in yellow, tempting rolls on their breakfast and dinner tables. They refuse longer to be poisoned by slow degrees, in order that the manufacturers of bogus butter may become rapidly rich on their snug profit of four or five hundred per cent. Congress has the whole subject of butter adulteration before it, and the State legislatures are preparing to do their share of the task of conserving the general health and stopping the raid on the public's pocket. All the signs point to the conclusion that bogus butter, as a salable article of food, must go.

We commend to the members of our State Legislature the views of such gentlemen as Messrs. Seymour and Thurber, which ought to possess considerable weight in this connection. The people expect that the Legislature will do its whole duty in the premises and adopt such a measure as will protect equally the legitimate producer of honest butter and the general consumer from further imposition by the manufacturers and retailers of poisonous imitations.

## APPENDIX.

## COMMISSIONER BROWN'S REPLY TO THE SENATE.

On the 9th of March, 1886, the Senate of the State of New York adopted a resolution requesting the State Dairy Commissioner to furnish certain information relative to the work of his department. The first of the questions propounded was as to the number of prosecutions since May 1, 1885, for violations of the dairy laws; second, the number of complaints made against different citizens of the State in regard to which actions have not been begun; third, the names and residences of the assistants, attorneys, experts, chemists, etc., employed by the department; and fourth, asking special information with regard to the case against Daniel Kerin, in which an adverse decision was rendered.

In his reply, which was presented to the Senate on March 18, Commissioner Brown said:

"Early in the first year of my administration of the affairs of this department, I found that the time of district attorneys of New York and Kings Counties was so fully occupied in the prosecution and enforcement of the criminal laws in their respective counties that it was impossible for them to give that attention to the attempt to enforce the statutes with reference to imitation, impure and adulterated dairy products, which in my judgment was necessary to secure the arrest, trial, and conviction of those who have been guilty of violating the provisions of those statutes.

"I therefore employed attorneys to assist in this work who were acceptable to, and could therefore work in complete harmony with, the district attorneys. This subject is referred to on page 6 of my first annual report to the Legislature. Section 19 of Chapter 183 of the Laws of 1885 prescribes penalties for violations of the statute in addition to fines which may be imposed by the criminal courts.

"I was advised by the district attorneys of two dairy counties to bring suits for those penalties, and believing that violations of our law could be more certainly prevented and offenders more surely punished, I determined to have suits commenced and prosecuted for the penalties prescribed. I referred the whole matter of these proposed prosecutions and of the employment of attorneys to my general counsel, Messrs. Risley, Quin & Perry, whose opinion upon the subject is hereto annexed.

"This opinion, holding that it was the duty of the Dairy Commissioner to employ counsel in all prosecutions, and that it was not the duty of the Attorney-General to do this work, was submitted to that officer, Hon. Denis O'Brien, and he concurred in the conclusions to which my counsel arrived in the opinion hereto annexed.

"During the previous year proceedings had been instituted and conducted by different attorneys in several different counties, which involved so much care and attention to keep track of and direct the litigation that I decided to have all actions for penalties brought by some one attorney or firm, in order that at any time I could easily possess myself of all the facts relating to this branch of the service throughout the State.

"It was my purpose, as soon as the pleadings were served and a case ready for trial, to send the papers to some competent attorney in the county where the venue was laid, which in all cases must be the county in which the defendant resided, that causes might be actually tried by local counsel on fair terms to be agreed upon."

Appended to the report was the opinion of Risley, Quin & Perry, to the effect that the Dairy Commissioner was authorized to employ such counsel as he deemed necessary, and that he was not justified in casting the burden of this special litigation upon the Attorney-General.

In conclusion, Commissioner Brown says :

"From these statements it appears that there have been two hundred and sixty-three actual criminal prosecutions instituted and fifty civil suits brought for penalties for violations of the statute with the enforcement of which I am charged.

"A penalty of \$100 has been paid without suit in sixteen different cases. In this connection it should be stated that evidence of violations of the statutes mentioned has been obtained in something over two hundred different cases, principally for violations of the milk sections of the statute, upon which, as yet, no complaints have been made or proceedings actually commenced.

"Under Section 19 of Chapter 183, Laws of 1885, civil suits may be brought by the Dairy Commissioner to recover penalties therein fixed in addition to the fines to be imposed in criminal proceedings against offenders, not less than five hundred such suits might have been brought within the twelve months last past ; but it was deemed unwise and unsafe to plunge the State into such enormous litigation until the courts has passed upon some of the cases now pending. If the Dairy Commissioner is in duty bound to bring suits for penalties in all those cases, it will be seen that his time must of necessity be pretty fully occupied. If suits for these penalties are only to be brought, in such cases as the Commissioner shall deem proper, that officer will often be charged with favoritism and injustice however faithfully and wisely he may discharge his official duty in the matter. Whether the statute can be amended so as to relieve the Commissioner from such a serious responsibility and protect the State against the unwise use of such unlimited discretion or power without taking from the Commissioner the authority which he needs in order to vigorously enforce the laws, is a question for the Legislature in its wisdom to determine.

"In the foregoing statement made by Assistant Commissioner Van Valkenburgh, it appears that, in several instances, cases made against manufacturers and wholesale dealers in imitation butter were presented to the grand jury, and indictments were refused. I am informed that such refusal was placed upon the ground that those parties made and sold the article for what it really was and not for genuine dairy butter.

"Civil suits have been brought against several of these persons, but the cases not being of the class of preferred causes, they have not yet been reached, although we hope to bring them to trial very soon. Large numbers of retail dealers were continually selling imitation butter to the people for the genuine, and I have proceeded with all the vigor and force practicable to cause the arrest and punishment of all this class of offenders, and at the same time pushing forward as rapidly as possible the cases against manufacturers and wholesalers.

"It is further shown in the foregoing documents and statements that the sum of \$53,403.80 have been expended up to March 1, 1886. To this sum must be added, to show the entire sum expended and incurred, and which is not called for by the resolution nor stated herein, the salary and expenses of the Commissioner, the traveling and other expenses of the assistant commissioners, agents, experts, etc., in the performance of their official duties, amounts paid for suspected samples purchased, for chemicals, apparatus, etc., necessarily purchased, for postage, printing and other necessary incidental expenses, as audited and allowed by the Comptroller, which will increase the sum above stated by several thousand dollars.

"For the further information of the Senate, I have annexed the retcopies of the opinion of the court in the case of *The People vs. Daniel Kerin*, and also in the case of *The People vs. Benjamin J. Hill*, both of which were decided at the General Term of the Supreme Court, First Department, January, 1886."

With regard to the adverse decision in the Kerin case, the opinion of Messrs. Risley, Quin & Perry says:

"The submission in the Kerin case was, as we have stated, under the advice of one of our firm. The Commissioner did not know of it at the time of its submission. The case was finally submitted by the district attorney in accordance with our suggestion. After the agreement for the submission had been made and the case submitted, the Cipperly decision was made by the Court of Appeals, which apparently held the precise point involved in this case, as we understand its effect. The indictment against Arensburgh, involving the constitutionality of Section 7, was tried on January 6, 1886, and a conviction obtained against him for selling oleomargarine. The judge before whom it was tried, and the assistant district attorney who tried the case, took a little different view of the construction of Section 7 from that which we have argued. No question was raised, however, by the defendant's counsel in that respect. The case has been submitted on appeal to the General Term of the Second Department. An early and favorable decision is anticipated."

### COMMISSION MERCHANTS' PROTEST.

THEY EXPRESS THEIR OPPOSITION TO ANY REDUCTION OF THE APPROPRIATION FOR THE DAIRY DEPARTMENT.

In March last the leading butter merchants sent the following communication to members of the Legislature. It explains itself:

We, the undersigned dealers of Dairy Products of this city, in view of the fact that the Senate Committee on Finance having reported in favor of reducing the Assembly Appropriation for the Dairy Commission of \$75,000 to \$50,000, which in our judgment is a serious mistake, as it is within our knowledge that the Dairy Commission have used every effort within their power to enforce the Oleomargarine law, and have accomplished a great deal in protecting the consumer against being defrauded.

It is a question beyond dispute that the enforcement of the law has saved to the Dairy interest of this State not less than one and a half millions of dollars during the past six months. In our opinion, the experience obtained by the Commission how to deal with this gigantic fraud is of incalculable value. Any change whatever in the law or execution of the same would be detrimental to the Dairy interest and to the consumer of the Dairy product. We are aware of the obstructions the Commission have had to contend with in the courts, and especially in dealing with the manufacturers, the courts having shown a disposition to await the decision of the General Term before proceeding with any more trials of cases. The bogus butter interest is watching our action closely, and any move on the part of the Legislature to disturb the Dairy Commission in any way whatever would be exceedingly gratifying to them. The Dairy interest and the consumers will hold you responsible.

We earnestly request that the appropriation be made \$75,000 and the Commission be not disturbed.

*Signed,*

MACKENZIE, CHASE & CO., 92 Warren St.  
 EGBERT & CASE, 80 Warren St.  
 MCBRIDE & CO., 74 Warren St.  
 JNO. S. MARTIN & CO., 168 Chambers St.  
 HUNTER, WALTON & CO., 168 Chambers St.

F. C. BARGER & CO., 82 Warren St.  
 CHAS. S. BROWN & CO., 84 Warren St.  
 CHAS. H. ZINN & CO., 94 Warren St.  
 W. H. DUCKWORTH, 319 Washington St.  
 HENRY HANSON & CO., 90 Warren St.

FOLSOM & BENNETT, 70 Warren St.  
 JOHN A. SMITH & BRO., 279 Washington St.  
 LLOYD I. SEAMAN & CO., 313 Washington St.  
 B. F. TUTHILL & CO., 191 Duane St.  
 JAS. H. FANCHER, 69 & 71 Clinton Market.  
 TRELEASE & UNDERHILL, 22 Jay St.  
 JOHN H. MEYER, 323 Washington St.  
 L. F. DODD, 325 Washington St.  
 QUICK & REED, 327 Washington St.  
 LUTZ & OETJEN, 331 Washington St.  
 W. F. REDLICH, 332 Washington St.  
 A. M. COLLIGNON, 330 Washington St.  
 C. F. GLIMM, 322 & 324 Washington St.  
 W. P. WILDER & CO., 312 Washington St.  
 NELSON SECOR, 189 Duane St.  
 G. D. AHRLING & CO., 193 Duane St.  
 H. HENNEBERGER, 317 Washington St.  
 HARRY DOWIE, JR., 316 Washington St.  
 W. H. B. TOTTEN, 291 Washington St.  
 I. H. MACBRIDE, 304 Greenwich St.  
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 VAN VALKENBURGH & RONK, 350 Wash-  
 ington St.

JOHN A. WILLETT & CO., 137 Reade St.  
 BROWN & RITTENHOUSE, 139 Reade St.  
 L. B. MILLER & SON, 145 Reade St.  
 JOHN K. LASHER & BRO., 147 Reade St.  
 WM. B. A. JURGENS, 179 Boerum Street,  
 Brooklyn.  
 W. I. YOUNG & CO., 149 Reade St.  
 S. C. BRUSH, 149 Reade St.  
 CHAS. M. HOWE, 149 Reade St.  
 M. J. GRAHAM, 151 Reade St.  
 C. E. BLISS, 153 Reade St.  
 FISHER & RITTENHOUSE, 154 Reade St.  
 GERKEN & BURMEISTER, 154 Reade St.  
 G. W. DEMAREST'S SONS, 148 Reade St.  
 JOHN KOSTER, SON & CO., 146 Reade St.  
 WM. H. LUDLUM, 144 Reade St.  
 NICHOLS BROTHERS, 142 Reade St.  
 TARBOX & CRANDALL, 140 Reade St.  
 A. J. D. WEDEMEYER & CO. 394 Greenwich  
 Street.  
 ENYARD & BAIN, 188 Chambers St.  
 SEYMOUR & NOE, 176 Chambers St.  
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